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JEWISH LEGISLATORS,

AND

ISRAEL'S CONVERSION:

A SCRIPTURAL ENQUIRY,

BY THE

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SECOND EDITION, REVISED AND ENLARGED.

שְׁאַלּוּ שְׁלוֹם יְרוּשָׁלַם יִשְׁלִי אֲהָבֶיךָ

“ Pray for the Peace of Jerusalem ; they shall prosper that love thee.” Ps. cxxii, 6.

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INTRODUCTION.

THERE are few subjects more deeply interesting, than the records and prospects of the Jewish nation. The position of the *Jews* is so marvellous—they are such a visible monument of God's interposition; and the Christian faith contains so much reference to their history: that the heart must be unnatural, which does not keenly feel for Israel. Indifference would be ingratitude towards that ancient people, “whose are the fathers, and of whom, *as concerning the flesh*, CHRIST came, Who is over all, God blessed for ever”; for it is evident that *our Lord* sprang out of Judah! This view seems daily to gain ground and be reciprocated. Thus, for instance, while conversing with an intelligent Jew not long since, on the infallible proofs of Christianity, I was met with the natural remark—‘Suppose we grant that all is as you say, *you* must feel much beholden to those *Jews*, with whom in the very essence of your faith you say you have so much to do; for what would you have been without them? you surely then must cherish the liveliest affection towards Israel?’—and the response of every right-ordered mind cannot be otherwise than as if in the accents of “Pray for the peace of Jerusalem: they

shall *prosper* that *love* thee! Peace be within thy walls, and plenteousness within thy palaces. *For my brethren and companions' sakes*, I will now say, Peace be within thee. Because of the house [or Church] of the LORD our GOD, *I will seek thy good.*" Thus the pious Bishop of Chester, in the London Society's Anniversary Sermon, for 1845, says, "Behold this nation, *to whom I owe so much*; without the hope which, through their means, I am blessed with! Let me hold up to them the Word of Life, if GOD peradventure may have mercy upon them, and disperse the blindness which has happened unto Israel. After eighteen hundred years, we begin to feel these sentiments, and to act upon them."

Great and striking is the mission which the Jews have yet to fulfil. They have too freely been instruments in GOD's hands, ever to exhibit less than a strange and eventful destiny. Wondrous in dispersion, wondrous in prosperity, wondrous they have always been! Thus among the many praises that so rapturously ascended from the Red Sea shore, to the sound of the timbrels of Moses and of Miriam, none were chanted with more appropriate fervor than the strains that the GOD of Israel is surpassingly "glorious in holiness, fearful in praises, *doing wonders.*" And wheresoever our attention lights upon the illustrious annals of the children of Israel; we must pronounce them to be a *miraculous* nation: not only as a living and standing Miracle now, but also inasmuch as they originated in prodigies, were preserved amid mighty

portents, and are to be at last converted by the crowning miracle of Grace “within” them; so that when the Scripture is fulfilled—“shall a nation be born at once? for as soon as Zion travailed, she brought forth her children,” *then* especially, in the most thrilling accents of amazement, “according to *this* time, it SHALL be said, of Jacob and of Israel, *What hath GOD wrought!*”

This wondrous character of all that appertains to Israel, we are necessarily impressed with, whether we behold the calling of faithful Abraham from among idolaters, or the preternatural birth of Isaac, the marvellous manner in which his prerogatives came to Jacob, the stupendous incidents in Egypt, the passage of the nation with their “young and their old” through the baptism of the Sea, the destruction of Pharaoh, his chariots and his horsemen, the terrific grandeur which invested mount Sinai under the personal presence of the LORD, the pillar of fire and the pillar of the cloud, the construction of the tabernacle, the gift of manna “angels’ food” for forty years, while their raiment waxed not old upon them, neither did their foot swell in the wilderness: together with their magnificent introduction through the sundered flood of Jordan into their promised land, the lot of their inheritance; followed by unexampled victories, celebrated by writers, in poetry and history, of eloquence unrivalled because divine,—such as those incomparable effusions, the Psalms of David, hymned in the *Temple* of Solomon, which was itself a Wonder of the

World. We may also mark their matchless wealth, their indomitable prowess, and the boundless dignity and comforts with which they were blessed, as long as they served JEHOVAH as He wished ; but when they rebelled against God their King, they suffered the Seventy years' captivity, according to the precise number of the sabbaths which they had desecrated,—from which banishment, on repentance, they obtained a most signal restoration to their own land. And if we carry on the view of the circumstances of the Jews, down to the times of the Miracles of CHRIST and of His Apostles, succeeded by the total destruction of Jerusalem, because of Israel's national rejection of the Messiah ; and the dispersion thenceforward and *dissemination* of the Jews in all climes, even to these our own days, in direct accomplishment of the brilliant prediction of the prophet Amos, ix, 9, "lo, I will command, and I will sift the house of Israel *among all nations*, like as corn is sifted in a sieve, yet shall not the least grain *fall* [so as to be useless] upon the earth ;" while we survey all these things, like one astounding pageant, we perceive that the LORD GOD of Israel, Who, in the triple testimony of Hebrew and Greek and Latin on the Cross, was so truly designated "the King of the Jews," has ever, in His dealings towards the race of *Israel*, been true to that title of the Prince of Peace, whereby He so suitably was announced by Isaiah as "*Wonderful, Counsellor, the Mighty God.*"

Words could not give a more graphic description of the present condition of the Jews, than Hosea,

iii, 4, “The children of Israel shall abide many days without a king, and without a prince, and without a sacrifice, and without an image [not being idolaters], and without an ephod, and without teraphim [Penates, the domestic Cherubim, or household gods]; *afterward* shall the children of Israel return, and seek the LORD their God, *and David* [דָּוִד, τῷ Ἐγαπημένῳ, Eph. i, 6, namely CHRIST] their King; and shall fear the LORD and His goodness in *the latter days*.” For in His “*Beloved Son*” shall GOD at last be “well pleased” with *them*. Wherefore we are sure that all such promises as the eulogies which were wrung from the baffled malice of Balaam, are still to be in force; for the covetous Seer was driven to acknowledge, “behold, I have received commandment to bless, and He hath blessed; *and I cannot reverse it*”! and Balaam forms no farfetched type of the lukewarm views of many in modern Christendom; nor actually *was he able* to utter one imprecation against GOD’s people, so that we see the malignant enemy of Israel from afar, defeated at his own altar, and passing a benediction instead of a curse: while all that the foe can articulate is, “Blessed is he that blesseth thee, and cursed is he that curseth thee,” Num. xxiv. 9. Nor is this given *only* to be generalized, and resolved into the blessings of the Christian Church; for Balaam expressly advertized Balak about “*this* people” in the “*latter days*,”—at the same time that he distinctly predicts the Messiah as the Star that was to come out of Jacob, and the Sceptre that was to rise *out* of Israel—and

therefore *for* Israel: “the LORD his GOD is with him, and the shout of a *King* is among them,” even Hosanna to the King that cometh in the Name of the LORD! which is the very welcome that CHRIST tells us (Luke xiii, 35) the Jews are yet to offer to *Him*. So that as soon as the six millions of this *still-existing* Nation, shall receive JESUS CHRIST and Him crucified; then—through the Atonement of the Saviour’s Blood, which they shall appreciate when they look on Him Whom they have pierced,—it shall again be true that “He hath not beheld iniquity in Jacob, neither hath He seen perverseness in Israel:” and again shall the tuneful aspiration be elicited, “How goodly are thy tents, O Jacob, and thy tabernacles, O Israel!”

Moreover, the Jews are the same description of people now, that they were when Balaam said, “lo, the people shall *dwell alone*, and shall not be reckoned among the nations.” So are they now! recognized wherever they go, an unique and isolated community: the more so at present, because till now they have been suffering, thus to be a standing witness of the danger of rejecting CHRIST,—in their own words, “His *Blood* be on us, and on our children!” and so that Blood has been. Yet, to the most interesting question, “Hath GOD cast away His people?” the conclusive answer of the Christian Apostle is, “GOD forbid!” The decree of the *New Testament* is, GOD hath *not* cast off His ancient people “whom He *fore-knew* ;” so that the three things, GOD’s former acts towards Israel, His being a Prescient Being, and

Israel's continuance as a people, all warrant the hope of the regeneration of the Jews, both spiritually and politically. This is the strain of the whole eleventh chapter of the Epistle to the Romans; as when it is said, "if the casting away of them be the reconciling of the world, ~~what~~ shall the receiving of them be, but life from the dead?" Here the restoration of Christianized Jews is represented as a most desirable consummation; and therefore, under the circumstances, we can only conclude that of course God will compass the thing desired: it is incredible that He should leave it undone. So that, if now we must say of them, "How are the mighty fallen!"—we hope to see them soon again decked with their pristine glory, as Chrysostom says in his Homily on Rom. ii, 17, "The very name of a Jew *was* of great majesty, as Christianity is now." And, when the Apostle adds, "they also, if they abide not in unbelief;"—we may observe, that the word *if* (εαν) includes the force of *when*, as an indirect but still undoubted prediction of a certainty, as where CHRIST says, "and I, if (εαν) I be lifted up." Wherefore we may explain the passage thus—"and they also, *when* they abide not in unbelief, *shall be grafted in*: for God *is able* to graff them in again;" which event thus is held out to the Church to be prayed for. And it is a restoration to the actual land of Palestine, for the supposition of the Apostle was this—"if some [not all, St. Paul being one] of the branches be broken off;" of course then, when *these* are to be grafted in *again*, they shall be *as they*

were before, namely, restored back to their own stem or original position, in Palestine.

Not that there is any transcendant virtue in the mere land of Palestine. But as the Jews are to receive at the LORD's hands a perfect recompence in CHRIST, and as Palestine is their land; they are as a matter of course, to possess Palestine again, in glory and in power—tho' then especially they will go out thence everywhere preaching the word, and the LORD will eminently reign among them, that is, by His SPIRIT. The Jews' *land* is the necessary arena for the great spiritual movement which is to be wrought out through the *Jews themselves*. To attach beyond this any extraordinary importance to Judea or the city of Jerusalem, is a carnal fiction, borrowed from some of the unconverted Jews themselves; whereas, not only in Jerusalem, but equally elsewhere universally, "the FATHER seeketh" *only those* that worship Him in spirit and in truth. And tho' Zion is to *be* Zion, God's metropolitan Church, (to the confusion of Rome, for the Jews shall first attack "the *West*," Is. xi, 14,) and tho' Zion shall be the chief glorious city for the King of saints; still the main feature is, that (Is. i. 27,) "Zion shall be *redeemed* with judgment, and *her converts* with [CHRIST's] Righteousness."

The above view of the Gentile church, as a wild bough grafted temporarily into the Jewish trunk, is enforced thus—"for if thou wert cut out of the olive tree which is wild by nature, and wert grafted contrary to nature into a good olive tree; how much

more shall these, which *be* the natural branches, be grafted into *their own* olive tree: for blindness in part is happened to Israel, *until* the fulness of the Gentiles be come in." And in that (like Matt. xxiii, 39,) it is said "UNTIL," it is unequivocally asserted that the Jews are to be restored: here is the prescribed limit: there is no doubt of the fact, the only latitude is as to the time: for the next words are those most cheering and decisive expressions, "*And so ALL Israel shall be saved!*" that "they also *may obtain mercy!*" How express are these infallible statements, that the Jews shall become Christians, and be restored to their own land; and we may expect to find the same zeal and activity which the Jews are remarkable for in all their avocations, most splendidly enlisted in the cause of JESUS CHRIST. Many things have lately been directing the attention of the world towards Judea; thither the Jews themselves have been flocking in unprecedented throngs; while immunities and toleration are now generally extended towards that no longer trampled race—and what can this *change* be, but a secret instrument in the hand of Providence, to turn them from darkness to light, and from the disobedient to the wisdom of the just? The Jews are burning more than ever with patriotic desire to regain that pleasant land, the glory of all lands, of which the Hebrew Scriptures are their imperishable title-deed. The land of Palestine belongs indefeasibly to the Jews; no one has any right to it but themselves. Their mortgage of Judea is the Holy Bible, which is part of

the Common Law of England. Would that the realm of England stood forth to demand for the people of God their own ancient inalienable heritage! would that we offered ourselves to be the instruments in the hand of the Omnipotent to bring Israel back, spiritually and temporally; and that leading the *Crusade*--not to seize their land for ourselves, but to make restitution of it to its rightful owners, we obeyed the command, Is. lx. 9, "Surely the *isles* shall wait for Me, and the SHIPS of [the chief naval power] Tarshish FIRST, to bring thy sons from far, their silver and their gold with them, unto the Name of the LORD thy GOD, and to the Holy One of Israel, because He hath glorified thee." And let men sneer as they will, they shall find that the Jew is to be the hero of the great drama of the world, especially when his rabbinical delusions shall as a captivity pass away, at the time (Rev. xvi, 12) of the drying up of the water of "the Euphrates;" for the genius of 'Reform,' in this as in other countries, may be said to have diverted the current, whereby Cyrus wades into the high Babylon of the constitution or old regime: but the difference is, that the Church is in concert with Daniel even there, and is not like the drunken Belshazzar who was slain at his impious orgies, for she is sober and vigilant, and watching unto prayer, fighting with the sword of the Spirit which is the Word of GOD, witnessing for CHRIST amid all this turmoil, and *improving* the latitudinarian riot, which shall only give greater religious freedom, making

Superstition to collapse, and opening the way to the land of promise for all "the Israel of God," so that (Zech. xiv. 16,) they shall "go up from year to year to worship the King, the LORD of Hosts, unto Jerusalem." Nor should we overlook that this drying up of the Euphrates, is in the above passage made to have the following result, "*that* the way of the kings of the East might be prepared." These "KINGS" must be some united or incorporated rulers, such as the East India Company, which has the territorial Government of the best part of the Orient; and we may describe their progress as having been from the "ultimos orbis Britannos," "a Gadibus, usque Auro-ram et Gangem." Who else but a *Company* of "merchant princes" (Is. xxiii, 8,) can have one common object, on "*the* way," that is, *their* line, or the track for *them*, a Road adapted to *their* especial benefit, tho' formed perhaps manually by others? so, just as the Euphrates (Herodotus says) was a great stream of traffic, its drying up may denote a new kind of locomotion, such as an iron road, for the CAR-CAR-OTH, or railway trains, mentioned prophetically by name at Is. lxvi, 20, meaning, not "swift beasts," or dromedaries, but *carriages* which are *like* a string of camels winding through the desert, each with its "sella" or *chair* or small palanquin, called the *car hagamal*, at Gen. xxxi, 34. Such a line has already been *begun*, through Smyrna. This "way" is one whereby the Kings who arise *from* (or who got their ascendancy in) the East, may have continual intercourse with the

West; and yet their dominant current flows *from West to East*, on the map of the world, as exact as an arrow according to the course of the "water" of the Euphrates, from north-west to south-east. The power or wealth of these Kings lies at either extremity of this line; and the "way" is for war, commerce, and the Gospel. This way has already existed; but now it is to be "prepared," or remodelled, for a grand latent object. The route must run beside or through the old Jewish dominions, which extended to "the river." There must be this *preparing a way*, or arranging a transit, by means of political and physical facilities, towards that Holy Land, for its restoration to freedom; even tho' the "Kings of the East" crumble down themselves in so doing.

Thus are Balaam's words verifying, that "ships shall come," *miad*, "from the coast," or, more strictly, freed from the hand, "of Chittim," or Italy; and they shall afflict Ashur, at Navarino, and now by asserting Israel's rights, *just as* Ashur had with all its numerous accomplices so long afflicted Eber or the Jews: "and he," namely, the enemy, Ashur, or Islam, individualized, and singled out for punishment, "shall perish for ever," being broken without hand: while simultaneously the affliction of "Eber" or the Hebrews ceases, and a restoration takes place. How true thus is the appeal in the 18th of Isaiah, to the land "which is beyond the rivers of Ethiopia," namely, Britain, lying far beyond or *over* from Judea, across those Mouths of the Nile which Isaiah (xi, 15) calls

“the seven streams,” whose embouchure for *all* “the rivers” of Cush is at Is. viii, 18, expressly signalized as the END of the rivers of Egypt. The English now pass this very point, on their hitherto usual highway to Egypt and Aden; by the route, which, tho’ styled ‘overland,’ is principally marine. It is likewise written by Zephaniah iii, 10, “from beyond the rivers of Ethiopia My suppliants, even the daughter of My dispersed, shall bring Mine offering;” that is, the powerful distant people who come eastward from the above direction, and who in their own western land are My liturgical suppliants or regular worshippers, saith the Saviour, SHALL BRING, as with the sound of the Jubilee trumpet, unto their JEHOVAH, the acceptable offering of regenerated Israel, or “the daughter of my dispersed,” the “dispersed of Judah;” even (James, i, 1,) “the twelve tribes which are scattered abroad.” Still further, at Is. lxvi, 20, it is announced that the Jews who become converts among the Gentiles, shall through Gentile instrumentality be the agents to “bring” all the rest of their brethren the Jews “to My holy mountain Jerusalem, saith the LORD, as the children of Israel bring an *offering* in a *clean* vessel into the house of the LORD.” Tho’ the distant land is (Deut. xxx, 13,) “*over* the sea;” its people come thence, purposely, with salvation, and “bring it *unto*” the Jews. This land, as the first-rate Power on earth, is addressed, not with the cry of “Woe,” but, as Bochart explains it, *Ho* to the land! (like “*Ho*, everyone that thirsteth,”) and this land is

may be sure that at last we shall look back adoringly on the unfolded map of all God's purposes, and sing together as our jubilant and eternal song, "*Rejoice, ye Gentiles, with His people!*"

Nor are these events far off; they are near, even at the doors. While we see before us the house of Israel still extant, existing as a distinctive body, and hitherto prejudiced generally against Christianity; we also trace that *here* it is, that the most wondrous work of these latter times does begin! "Ye shall be gathered one by one, O ye children of Israel," Is. xxvii, 12; like as it is written in Jerem. iii, 14, "I will take you one of a city, and two of a family, and I will bring you to Zion." And correspondingly keen should be the interest excited; as Archbishop Leighton powerfully says, "they forget a main part of the Church's glory, who pray not daily for the conversion of the Jews." In other times there have often been nominal converts from Judaism: but they were *forced* to disclaim their real convictions; amid such gross acts of tyranny as when King John of England, in 1210, barbarously extracted the teeth of Jews to make them furnish him with the *money* which afterwards broke his sordid heart, when his treasures were lost in the Lincoln Washes,—some indeed of these Jews endured his cruelty unmoved, altho' they would no longer have been subject to his extortions, if they had turned to that which was considered Christianity in those days. There have been Bishops in the Romish Church in Spain, Jews in disguise, who conformed for

fear, and bought their promotion. Such converts were not persuaded, but driven into receiving 'the Gospel;' not convinced, but brow-beaten.

But now in the free land of Britain, the enterprise has arisen, which meets the Jews in a way hitherto untried since the earliest and apostolic age. Now men go out and reason with the Jews, and convert them, by means of solid scriptural argument, accompanied with brotherly kindness and charity. The Jew is appealed to as a friend: his prejudices are subdued by our explaining to him how things really are; he is taught that Protestant Christians are not either idolaters or Tritheists, as he had been wont to suppose. The Jew is argued with in an affectionate tone, with the aid of common sense, and the Word of God is opened; the Jew's own Hebrew Bible is unfolded, according to the sterling advice which our LORD's parable of the Rich man and Lazarus supplies us with, where CHRIST in the character of Abraham saith, "If they hear not Moses and the prophets, neither will they be persuaded, tho' one rose from the dead." So we take our stand on this sacred warrant, and we *do* go to them with Moses and the Prophets; and from "Moses and the Prophets" we do satisfactorily establish to their minds the impregnable evidences of the Christian Religion. And on these exertions a blessing has already rested: of the Agents, and *Missionaries to Israel*, 52 are believing Jews: and a great multitude of the Children of Abraham have embraced Christianity; a greater

number within the last few years, than have ever turned to CHRIST since the first promulgation of the Gospel. The Jews are now won over to the Gospel in the right way, which was not before attempted, since the first century : this is now a new thing in the earth, exhibited in our own days, and the blessing of God is on the plan, because it is His own doing ; for thus unto them who fear His Name does the Sun of Righteousness arise with healing in His wings. We also consolidate our advantage, by Hebrew Schools ; there have been 522 Hebrew children in the London School, and 600 at a time in the ten Posen Schools.

Many may not know these facts : many may revile or ridicule, or be indifferent to the things which are thus going on ; but still God's work prospers. How blind are they who shut their eyes to these signs of the times ! such persons are a walking commentary on the first part of the statement that "none of the wicked shall understand, but the wise shall understand." If men sneer at the Jewish cause, they do it at their peril : for if God foretold that the Jews should up to a certain time be a byword and a hissing, still God is sore displeased at those who do hiss at them—as many as have evil will at Zion. And the scoffers, who (disbelieving the Restoration) would make the Jew sing *them* the songs of Zion in a strange land, are significantly told, "happy shall He be that rewardeth thee as thou hast served us !" They are the uncharitable characters who openly or tacitly insinuate that there is no use in trying to convert a

Jew. Well might they be rebuked, and told,—Look into *your own* hearts, ye sinners of the Gentiles: what were you by nature but “the children of wrath, *even as others?*” and if we assume that you are Christians now, is it not plain that you were once as far from God as any Jew now can be? and why may not the same Grace which touched your hard stubborn heart, touch the Jew also? is anything *too hard* for the LORD? Call the Jews *stones*, if you must be so illiberal; still know that God is able of these stones to raise up children unto Abraham! Do you think that a Jew, because he is a Jew, cannot possibly be converted? then, begin your invidious list with St. James, St. Peter, St. John, and other *Jews*, and finish with the late Bishop of Jerusalem! Ah, we have actual pleasing evidence that God now both is able and is willing to reclaim many sons of Israel, from unbelief, to Himself. It is a palpable error, a visible falsehood, and a revolting crime, to allege, as many (at least practically) do, that a Jew is irrecoverably reprobate. And why may not the same God Who has already brought over many Jews to the fold of CHRIST, also bring over the rest in the same way?

We have enough to encourage us to hope and trust, that a triumph of the Truth *had already* been divinely designed, when our beloved country Britain became honored by our God, in being allowed to take the front rank in an undertaking so holy as to have the eternal welfare of Israel for its object. The monarchs

of Prussia and of England have united in this cause; and their junction for such a purpose confers on them more glory than all the laurels they reaped at Waterloo. It is a truly Christian act; and hence we already see so many sincere and converted Jews in the Christian Church: there are 90 Hebrew *communicants* in London: and during a few years there have been 2,000 converts made at the single city of Berlin: the ‘*seals*’ to the credentials of the missionaries in Holland, Germany, Poland, Asia Minor, and elsewhere, are now counted, not by tens, but by hundreds, and thousands: at Königsberg alone in 1843 there were 1,600 Bibles and Testaments *sold* to the Jews, for 596 dollars, or £88: and now there are 480 Baptisms of converts on the Register of the Jewish Episcopal Chapel, in London alone. Moreover, even the neologian infidelity which has infected many Jews, is acting as the cold filter through which they trickle out of muddy Superstition into the crystal brightness of Gospel Faith: and among the mass of Jews in general,—who have hitherto haughtily and peremptorily turned from the *Tolu*, the Crucified,—“behold a shaking!” (Ezek. xxxvii, 7,) there is an unparalleled stir throughout the whole “valley of dry bones.” The Jews are all enquiring, in every part of the world: and in many of the cases it would be absurd to say that they seek to gain money by pretending to be Christians. Some are wealthy, and persons in authority; and to others we may apply Paley’s splendid test of the sincerity and integrity of the Apostles, that

they “endure hardness,” and submit to intense persecution from their brethren. Many must be actuated both by a genuine uneasiness concerning their own obsolete faith, and also by a deeply excited curiosity about Christianity; while their emotions of surprise are enhanced by the novelty of the mode of attack, because we assail Judaism not with threats and curses or the rack and the flames, but we make it our maxim, “we persuade men.” The Jews want to know what is our Protestant Religion,—what is this magnificent Liturgy, translated into Hebrew, they say? how obviously inspired and divine is *this Hebrew New Testament!* and with a thrill of amazement, while “the veil” (2 Cor. iii, 16,) now comes off their eyes, they enquire, *What is Christianity?* and thus “it,” namely Israel, “*shall turn to the LORD.*” Many of them have had the most extraordinary ideas about our faith: when I explained to one, what Scripture says of ‘the Holy Ghost,’ that He is God the Holy Spirit Who proceedeth *both* from God the Father and also from God the Son, and is thus the sure key of the Trinity: the Jew was astonished, and said *he always had thought that the Holy Ghost was the Virgin Mary!* Many such things have only to be cleared up to them in a kind and considerate manner. And we must make great allowances when we bear in mind that the vast proportion of the Jewish nation have long been living in places where they only see a bastard Christianity, which uses actual images and “pictures” (Is. ii, 16,) and the worship of finite

creatures, and the powers of an infallible Pontiff, making up a mock Theocracy; which things the Jews cannot at all endure. So that the strange saying of the Jews, that now their "Messiah is bound in the gates of Rome," may in one way be allowed to have been correct.

What can be more pregnant a sign of a sudden change, than that many of the most educated Jews have called themselves German free-thinkers, blank Deists, or even Atheists? We feel at once, *They cannot stay there long!* And, what Unitarian or Arian can stand, when the Jew falls? for who so respectable an Unitarian as a Jew? in fact he is the only Unitarian who has the semblance of anything to say for himself: inasmuch as the Jew rests on the supposed meaning of that Book, which even the Koran treats as the Word of God; thus the Heathen Tacitus, (His. 5, 13,) calls the Old Testament, "*antiquis Sacerdotum litteris,*" and Suetonius (Vesp. 4,) says of the same record, "*esse in fatis,*" and Juvenal, (14, 102,) styles it "*arcano volumine,*" and as such it had been translated for Ptolemy, Philadelphus, B.C. 285, when the Septuagint Version was made. On this confessedly sacred Book, the Old Testament, the Jew has hitherto habituated himself to rely, in his Unitarian views, as when it says, *Shemang Israel*, "Hear, O Israel, the LORD our God is ONE LORD." But now we point out to him, that even there, the Elohim or *God* is a Triune Being. We show him that many of the oldest Jewish writers were quite familiar with the doctrine of the *Ab*, and

the *Ben*, and the *Ruach Haccodesh*; as Serle also in his admirable *Horæ Solitariae* points out. In fact, it can be proved, as in Mr. Cory's erudite work, (Pickering, 1837,) that there has been no nation or period of the world without this doctrine. We take the Jew to his oldest Rabbis, whose writings represent the "Holy Spirit" as a Person; we point to the Targums which state that the "Word of Jehovah" is a Person likewise, the mediator between God and men. And in the celebrated ancient Jewish work called Zohar, the Trinity in Unity of the Deity is deliberately admitted. The Talmud itself says concerning the necessity of a sacrifice for men's sins, "For these, *Blood* is the only Atonement"—and will not the acute minds of the Jews see, that in the Sacrifice of the Godman CHRIST, there is the very divine sufficiency which *atoning blood* ought to have, if it be of any avail,—as their own 49th Psalm tells them, that no mere man can redeem his brother, nor make atonement unto God for him; for it costs more than man can give, to redeem a soul, so that he must let *that* alone for ever! When any soul agrees to this, he becomes a Christian, confessing that Immanuel's Sacrifice alone proclaims, *matsathicopher*, "I have found a ransom!" The 'Toledoth Jesu' owns that CHRIST raised the dead; and all it can add is, that He did it *by magic*! The ancient Rabbis also say the Messiah *was born* at the time represented by the New Testament; only He lies hid:—how flimsy is such an obscuration of Christian truth! How can the Jew overlook the fact, that the

whole Old Testament demonstrates that the Jews never were punished but when they rejected God: and yet now, tho' they do cling so ardently to their ADONAI, and tho' they are nowise idolaters, they have been for centuries suffering most grievously: are they not thus a colossal proof to themselves that they have been all that time in worse error than ever they were before; because God gave an emphatic manifestation of what He really is, and they summarily repudiated it? Will not the brilliant intellects of Israel be thus "taught of God" to discern that they have been mistaken in *their* views of God? for God must be regarded through His SON by the SPIRIT: but they took counsel together *against* the LORD, AND *against* His Anointed, the Messiah: He came unto His own, and His own received Him not: whence God has left them ever since without any prophet, any guide, during 1800 years. The Jews can be led to own that their modern idea of the utter Unity of God is unscriptural, and an idol of the imagination, as unauthorised as any graven image. Even the First Commandment, while it teaches the Unity by the words, "Thou shalt have none other gods but Me," does at the same time indicate, by the phrase "other gods," that there is a mysterious plurality therein; just as seven perfect prismatic colors can co-exist in one ray of light. Will not the Jew take up the 110th Psalm, "the LORD said unto my LORD," and calmly ask himself, are there not here two Beings each called "Lord:" David the King calls one of them "*my* LORD:" and,

what *second* "LORD" had *King David*, except God the Son? in CHRIST's own conclusive query, "If David then call Him LORD, how is He his Son?" and, as then, so now, no Jew can answer Him a word, save by confessing that CHRIST is *both*, SON and LORD: Son as Man, and LORD as GOD: for GOD and Man is one Christ. And when the 45th Psalm says, "Thy Throne, O God," and adds, "*Thy God* hath anointed *Thee*:" the Jews must tear the Psalm to pieces, or else acknowledge that here there are two Divine Beings; involving the truth that "great is the mystery of godliness, GOD was manifest in the flesh." Also when it is written that the Sceptre should not depart from Judah, until Shiloh came; what can be more obvious than the fact that, as the Sceptre has departed, Shiloh *has* come? The prophet Malachi said the Messiah would suddenly come to His Temple, namely, the renowned Temple which then stood: but *that* Temple was razed to the ground shortly after the Crucifixion: therefore CHRIST is the Messiah, or Malachi is false. And Haggai stated that the glory of that Second Temple of Zerubbabel should be greater than the glory of even the peerless First Temple of Solomon, and the reason is given—for "in *this* place will I give peace," namely, the Propitiating Son Whom the 72nd Psalm foretells as "our peace." CHRIST was present in that very Temple: and no one else appeared who made the least claim to be the Saviour, or set up any religion thereon: that Temple has been demolished for 1,800 years;

therefore **CHRIST** is the true Messiah, or Haggai is false. Such evidences can be gained, and strengthened, and multiplied, all through the Scriptures. The **Jews** cannot disprove these truths; and at last they come forward and confess, “We have found *Him* of Whom Moses in the Law and the Prophets did write, **JESUS** of Nazareth!”

In this direction great achievements have already been accomplished; they are most thoroughly in unison with the great fact of Christian history, that *Jews* brought Ordination and every Ecclesiastical institution into the Gentile churches,—so that it is only just and reasonable that the **Jews** when converted should resume those privileges in all their force: and doubtless the animating words, “O that the salvation of Israel were come out of Zion! when the **LORD** bringeth back the captivity of His people, Jacob shall rejoice, and Israel shall be glad,” can soon be uttered with a greater and greater sensation of ecstasy, according as God’s purposes towards His people become evolved. Bible-reading Englishmen should therefore gladly come “to the help of the **LORD**, to the help of the **LORD** against the mighty,” *against* the legion of unbelievers. Anything that may conduce to so happy a result, should be resorted to, either individually or nationally, as long as there is no sacrifice of principle; and even bad political precedents, fabricated in vain against us in other times, and such as we cannot now alter, may be taken advantage of, to further the spiritual emancipation of Israel.

II. STATE OF PARTIES, WITH REFERENCE TO THE ADMISSION OF JEWS AS LEGISLATORS, AND NECESSITY OF THE CASE.

THIS remarkable race of Israel has a portion of its people existing in this country; they form part of her Majesty's subjects. Some of them have acquired great influence, and are much respected; and by their wealth they have been enabled to be of service to the Government, in the most serious financial affairs. But a new feature has presented itself, inasmuch as a leading member of the Jewish persuasion was chosen at the last Election, by 7,000 votes, as one of the Members of Parliament for London; side by side with the Premier of England! This is a bold inroad upon the old state of things. It may seem like a new edition of the stratagem of the Clare Election, when Mr. O'Connell thrust himself in without leave, in defiance of existing regulations; and the question is, should such an irruption be allowed? Is it to be tolerated that the Constitution should be so invaded?—but perhaps we had best consider first, whether there does remain any such consistency or uniformity in the Constitution, as that this introduction of Jews can be said to be an invasion at all? for if there be no integrity, integrity cannot be broken. And each man in this free country feels himself in the first stages of the matter, entitled (as usual) to canvass the case, as if he alone could settle it; even tho' he may quite feel his own insignificance, with all becoming humility.

Now, the old Coustitution was supposed to be one of orthodox Churchmen : but *that* has been all altered ; how then can we now exclude the Jews, by speaking as if it had *not* been altered ? If it be said, still the Country remained Christian ; we must consider whether *this* be not again an unfair and untrue retention of the old system which we must confess has become exploded ? How can the old ‘ Church ’ system, which in 1829 was thoroughly broken into, be vamped up, for an emergency, into the reformed and indiscriminate ‘ Christian ’ system ? Moreover, is it *Christian* ? is not the rationale of it, that, if a man is a Churchman, well and good : and if he is neither Christian nor anything, well and good also ? And what bulwark is there *here* against a Jew ? It is besides, perfectly notorious, that we have had desperate infidels among our Legislators—men who hated any reference to “ Divine Providence ” even more than Mr. Joseph Hume who avowed it. Tom Paine if he was living, could enter into Parliament ; and so could Robert Owen, the Socialist, book in hand, if elected : many might murmur, but he would take all the oaths, and sit, as Gibbon did. How then can the presence of the ‘ Christian ’ disbelievers of all revealed religion, be a sound argument for the absence of the Jewish believers in the Old Testament ? Is not one at least as good as the other ? If you cannot oust one, why keep out the other ? And if *this* argument, and *this* argument, one after the other, cannot be maintained, —must not some other ground, if any, be taken up ;

and then, what is it to be? This is the field we have before us.

It may be very true, that the Election Return in question is illegal, and could only be substantiated under cover of a quibble, unless an Act be passed. Baron Rothschild will never stoop to so undignified a course as to insist otherwise upon the validity of his election. But then, the public is anxious to know, whether its rulers will legalize the return of Jews as Members of Parliament for the future?—And, let us in the mean time take an intelligent view of the matter. There appears to be a general willingness to do so, (for I pass over those who are so implacable that they will not listen to a word on behalf of the Jews.) I dwell not on the petitions presented by Lord John Russell, or Dr. Bowring, or others; but I point to a more striking fact, the petition of the University of Cambridge presented to the House of Commons against non-members of the Christian Religion being allowed to sit in Parliament: when we analyze the same, we find that while there were 78 against, there were as many as 39 votes in favor of Jewish Legislators. The minority is much more remarkable than the majority. The clergy must be naturally much interested in the Jewish problem. Their opinions are little known, (altho' undoubtedly the people would wish to know them): and they ought to be elicited, on both sides of the argument. Hence if it be harshly said to me, Why, however, cannot you as a clergyman leave the whole question

alone, and not interfere, but let others carry the measure without your meddling in it? Then I must humbly plead my own strong predilections in favor of God's ancient people, and my wish to do some small share of good by pointing out the *spiritual* as well as temporal disenthralment which Israel simultaneously receives. And if the Whig, the Radical, the Orangeman, and a host of petitioners, all propound their sentiments; it may be permitted to an untrammelled Protestant Clergyman most deferentially to express his views also.

We must then review the state of Parties. There are Churchmen in Parliament. But there are also Nothingarians in Parliament; men whose electors' Gospel is the *Weekly Despatch*, and who are the unsinged hydra heads of many a Nottingham mob. There are Protestant-Dissenter members of Parliament. There are Roman Catholic Legislators. And there are Socinian Legislators; Mr. Fox is actually an Unitarian *preacher*! All are in but the *Jews*; we cannot then keep *them* out. Uniformity cannot now be lost, for it is lost already: we can be but a little more motley than we are at present; and it is worthy of the deepest consideration whether it is worth while to brandish the rotten splinters of 'our inviolable Constitution' against the Jew, if thereby we offer him that which seems to him an insult, and retard or prevent his looking with a friendly eye, through some of our Christians, at Christianity itself? There are intrinsic reasons in the case of a Jew, which make *his*

admission more hopeful than any other. If Roman Catholic Members have not been converted, it is no reason that the Jews may not be. And possibly the previous admission of other parties has been providentially overruled by the God of Israel, to organize a work much more momentous (whatever we may think) and far more weighty than most of our imperial deliberations, namely, the restoration of His people to their Saviour and their long-lost home. The measure bids fair to be, even unwittingly, a most gigantic missionary movement.

The Church of England occupies now an altered position. All our prestige of singleness and exclusive supremacy has glided away. For illustration I may, on account of its value, cite as the most exalted opinion, the remark, which I had the honor to have made to me (April 26, 1847,) by the condescension of my Diocesan, the Archbishop of Canterbury, to the effect that, while "he regretted the violent opposition which Mr. Baines' party made to the Government Education measure, his Grace thought that the invectives which were then indulged in by intemperate men against the Church, were even doubly unfair and uncalled for, inasmuch as the Church of England had shown that she was content, for the sake of the public good, to abandon for the moment her old preeminent position, and with all moderation, most liberally to rank herself as merely one among the numerous bodies of Christians who were to be benefited alike by the project of the State." These encroachments of the

Dissenters, however, have grown into substantial perpetuities, by being continuously persevered in. Such is, we must candidly confess, the predicament we have come to. We have had to meet one such knotty conjuncture after another; and in each, we were detruded from our old dominant footing. Hence the Church now only subtends her own breadth, and no more. She *has* indeed come from under the cloud of formalism; and Tractarianism is only like the fitful glare of a few falling stars, nameless nothings, and meaningless irregularities: while the Church rides brighter and brighter than ever, tho' with only her own disc, quite hard defined, there being no fog of prerogative around her, nor any mist through which she may loom at all larger than she is. But still like the orb, which (and not any "woman") is called in Scripture the "queen of heaven;" the Church is growing to the full, and reflects her Master's light, as "the faithful witness in heaven."

When we see all these complicated parties, we may stop and ask, What is all this diversity for? As to God's designing it, we know that "God is *not* the author of confusion, but of peace, as in all the churches of the saints." But when confusion exists of our own making: God can control it, and make it work together for good; His Spirit can rectify even a Chaos, and impregnate it with blessing. Ht sitteth above the waterflood! For if men build their Babel, God will deal with them; since "all things are naked and opened unto the eyes of Him *with Whom we have to*

do." Of yore, He scattered them; but now, He amalgamates them: and as of old, so now, His purpose is, to break the power of evil. Then it was to dissolve a close confederacy; now it is to dilute the wide prejudices against His truth. The maxim of the day is, that "Union is strength;" but God will practically tell men (Is. viii, 9), "Associate yourselves, O ye people, and ye shall be broken in pieces."

If then it be asked, Is it positively your object, to proselytize the Jews? I would answer, it is; as far as the public act of their Admission can operate, regarded in its natural consequences. Not offensively should they be assailed, nor more than with the gentle aggressive energy of CHRIST's command, *Go, make disciples of all nations, beginning at Jerusalem!* It is very true, that, as to the Roman Catholics, the more you pet them and pamper them, and make Privy Councillors of them, and foolishly pay their priests; the more will they be inflexible in their own peculiarities. But we shall see that there is nothing similar in the case of the Jew: Judaism has no head, no combination, and it can scarce be said to continue at all as a system; thus the recent Berlin Circular, signed by thirty-two influential Jews, declares, "We want faith; we want a positive religion; WE WANT JUDAISM." So, when Jewish Legislators and Jews in general are brought naturally into more cordial intercourse than hitherto with some of our Christians; may it not speedily open their eyes? may not this be the only way to approach the hearts of a certain class

of the Jews themselves? And tho' Popish Emancipation and the Socinian Bill have been bad premises; they both now, in spite of us, are *facts*, which bring in the inevitable Conclusion, the Admission of Jews.

If we had been asked to agree to this, fifty years ago; we should have been excessively indignant. But now we are dragged on to it, at the chariot wheels of events. And thus, when "times" have passed over our heads, and when we have perhaps the compliment of being consulted whether we are willing that "the Jews" should be let in? it may be owned, that we do not dislike this change more than its predecessors. The last is the best. For it must be the last. There is no more besides this to change. For like the Laws of the Medes and Persians,—or like the finality Statute of Eubulus, never to be rescinded, at Athens of old, (Demosth. Olynth. 2, 5,); there is now an insurmountable fence around the *Crown*, making it an entail on the House of Brunswick, by virtue of their *Protestantism*: if this pact were infringed, the Crown would go as property to the next heir; and the "Coronation Oath" would make a royal renegade be personally perjured, and the Ministers who dared to tamper with it, would be ipso facto guilty of high treason. There cannot therefore be any alteration in this quarter: and how wickedly officious would be any such attempt, when we have so religious and gracious a Monarch, who with her Protestant Consort is attached to the Church of which she is the temporal Head, and who, if favor-

ing any other, would rather favor the Kirk of Scotland than the Church of Rome. As regards the future aspect of the Legislature's component parts; we may perceive that the Cameleon of the Constitution can only display some new modifications of its *present* hues. It may now be black white and yellow, masculine feminine and neuter, or epicene; without the introduction of any really fresh principle being involved. Even if—like as ladies can vote at vestries—we are to have, as Lord Ashley fears, a female M. P. or two; it would cost no principle, but only a smile. The Jewish change therefore is the last; and is it not the best? It is better for the peace and honor of Parliament, than the already-effected Admission of either Roman Catholics or Socinians. The Jews have no Pope, whose counter-signature is audaciously supposed to be necessary; they have no “foreign prince, person, prelate, state, or potentate,” who can come in with his rescript, and nip godless colleges in the bud. It is fresh in men's memories that the Earl of Shrewsbury and the late Mr. O'Connell even *defended* all the painful evasions of the stringent Roman Catholic Oath; which subterfuges also they continually resorted to, but which could not be practised by the honest mind of Lord Beaumont, who was thus as honorable an exception, as was he therein an unsound Romanist. Will the Jews construe the obligation of their oaths according to the 19th Canon of the 3rd Lateran Council, that “Oaths contrary to ecclesiastical utility are not to be accounted oaths, but per-

juries?" Will they adopt the *principle* of the 'Moral Theology' (!) of Alphonsus Liguori, who was canonized in 1839, that "the accused, or a witness not properly interrogated, can *swear that he does not know* a crime, which in reality *he does know*, by understanding that he does not know the crime, concerning which legitimately he can be inquired of"? Will the Jewish Legislators hereafter be found confessing such a fact as the following, which transpired in 1843 in the Corporation of Dublin,—“Alderman Butt.. Will you deny that it was your agitation which struck off one fourth of the tithes? Mr. O’Connell,.. *I did that certainly* (cheers);” adding, “it is alleged, as an argument against the repeal, that we would seek to appropriate the church revenues in a different manner from that in which they were at present expended. *I avow it* (hear, hear).” And the OATH, the taking of which was made the condition of the admission of Roman Catholic Members to either House, is, “I do swear that I will defend to the utmost of my power the settlement of property within the realm as established by the laws; and I do hereby disclaim, disavow, and solemnly abjure any intention to subvert the present Church Establishment as settled by law within the realm; and I do solemnly swear that I never will exercise any privilege to which I am or may become entitled, to disturb or weaken the Protestant Religion or Protestant Government in the United Kingdom: and I do solemnly, in the presence of God, profess, testify, and declare, that I do make

this declaration, and every part thereof, in the plain and ordinary sense of the words of this Oath, without any evasion, equivocation, or mental reservation whatever. So help me God." Will the Jews drive a coach and six through this Oath? No, the Jews are men of honor, who will act with truth and probity; the contrary would be the exception. Without committing ourselves to Tancred's "Asian mystery," we must accord to the Jew high praise; for his nature is noble, far beyond the opportunities which men's bigotry had left him. The Jews are unrivalled for zeal, energy, wit, cleverness, and application; they are a very *moral* race, and most munificently charitable, as may be seen in the hospitals, and institutions (forty in London) which they support. Their care for the education of their youth is most creditable; most of the Jews, whether young men, or more advanced in life, with whom I have ever entered into conversation, appear to have every word of the Hebrew Scriptures off by heart! How touching on this subject are the Apostle's words—"my heart's desire and prayer to God for Israel is, that they might be saved; *for I bear them record, that they have a zeal of God, but not according to knowledge.*" We must not judge the Jews by the sordid character of some, who have been made so by our persecutions. 'Sordid' as it has been fashionable to call the Jews; I fear we have quite as sordid people among ourselves. At least, I believe there are more Jews than one whose principles resemble the following singular trait

of character—A *poor* Jew once asked me to *buy* a shilling's worth of pencils from him, and he was deeply chagrined, when, instead, I *gave* him the shilling! Now, how many a Brian-Boru-descended Irishman, tho' too proud "to dig," "to beg" is *not* ashamed; and, if given a guinea, he would ask for sixpence to drink your honor's health. But the poorer Jews abhor mendicancy; and the wealthier Jews exhibit a most praiseworthy industry. Their love of money is not their chief love: for the caustic Col. Sibthorp hopes to see all Jewish Legislators *fined* if they absent themselves from the House on Friday evenings and Saturdays—and is it not, seriously, quite certain, that—as to all Jews except such as Alderman Salomons, who lets his attendance at the *Saturday* Marylebone Vestries be reconciled to himself as religiously meant "for the public good,"—the Jewish Legislators *would* submit to the parliamentary fine, sooner than break their Sabbath? Is *this* sordid? Do they not shame many a mercenary 'Christian'? Nor is their wealth more remarkable than their sincerity, when we remember that they do not carry on business during *two* days in each week; for thus the Jews give a *double* rebuke to all the huge tribe of Sabbath-breakers among ourselves. We thus have some tolerable tests of their trustworthiness and honest propriety of feeling. They certainly have no *non-natural* propensities, as has been proved by their deference to the Oath which stood in their way; tho' had they been as dishonest as any Puseyite, they might have jeeringly

and jesuitically taken the Oath “ on the true faith of a *Christian*,” interpreting it, On the true faith of a *Messianist* ! It is certain that Mental Reservation would NOT form any active part of their creed. Of course then all Jewish Legislators would be solemnly pledged, in the very words above, not to disturb the Church Establishment. And when they affirm this, I can implicitly rely on their word. *They* will shame many a professed ‘Christian.’ *They* will not be like the viper to sting our fostering breast. I can believe the asseveration of the man of the Old Testament, whether he be Caraites or Chasid ; whether he rests on the pure Word of God, or whether he takes that Word as overlarded with all the venerable rubbish of the Talmud.

What detriment then can result from this course ? Is it to be thought that they would, or can, prejudice our Church ? Cannot the ‘Prayer for the Parliament’ despite all the unfriendly public acts of late, be breathed still by us, without fear, in the full assurance of hope, “ That Thou wouldest be pleased to *direct* and prosper all their consultations to the *advancement of Thy glory*, the good of Thy Church, the safety, honor, and welfare of our Sovereign and her *dominions* ; that all things may be so ordered and settled by their endeavors, upon the best and surest foundations, that peace and happiness, truth and *justice*, religion and piety, may be established *among us*, for all generations ? ” Can the High Court of Parliament, which of late has rung with Appropriation Clauses

and Spoliation Speeches, so often, in vain ; now damage the Church, by completing the analogy, and admitting the Jews ? Remember that the primary symptom of the Establishment of the Church of England, has long *ceased to consist in the absence* of all other parties from the “great council of the *Nation* ;” we do not then pray for the continuance of that *which does not exist*, but we pray that all things which the State may attempt *against* the Church (such as ‘Bishops setting their house in order, for they must die !’), may be ineffectual : and that all “endeavors” *for* the Church, such as Sir Robert Peel’s Endowment Bill, may, in spite of all faults, “if any,” be blest to the “good of the Church.” Hence the admission of Jewish Legislators has nothing to do with making our Religion less “established among *us*” and others, than it is. It does not affect the Church at all, any more than the existence of Rosemary Lane. We might as well say that Rag Fair unchristianized us. What, alas, has the Parliamentary conscience in common now with our Christianity ? Altho’ the Premier, Lord John Russell, is known to be personally religious, and an example to others : we may ask, without offence, Would the members, all round, sign the Thirty-nine Articles, or else the Confession of Augsburg, or even the Nicene Creed ? What would the *Quaker Legislator* say if the Members were questioned by the Speaker, whether they even are all baptized ? Would they all take the Sacrament from the hands of their own Chaplain ? Is not Lord Brougham also an

“unworthy son of the Church,” as he calls himself? And is he the only one? Notwithstanding then the many worthy members that there are, we have had too many a sample of a “heavy blow and great discouragement,” from our rulers; for us at all to mean in our Prayer that our fidelity to CHRIST is only to be parallel with Parliament’s fidelity to Him:—even tho’ every “heavy blow” *has* proved very harmless, and futile, and in the style of “whosoever shall fall on that stone shall be broken.” A stronger passage than the above, is the one in the Litany, where we pray that Magistrates may “maintain *truth*.” But, again, we know that the executive (of all kinds) is *no longer* willing to maintain and exclusively uphold the Litany’s scriptural version of what TRUTH is. The Nation, like Pilate, asks “what is truth?” in the very presence of the truth as it is in JESUS. We are aware of this. So we do not pray against the mere passing of such and such Acts, which are simply signs of the men who are there to pass them. We now pray for the “*Magistrates*” themselves whom we cannot help having. We pray that our Religion of Truth may be maintained, if possible with the help of the State Authorities, and if not, without them, and in spite of them; like as it was under the monster Nero that the Apostle Paul gave the charge, “I exhort therefore that, first of all, supplications be made for kings, and for *all that are in authority*; that *we may* lead a quiet and peaceable life in all GODLINESS and honesty.” Also the Church Militant prayer men-

tions the Queen's *whole* Council, and *all* that are put in authority under her, "that they may minister justice, to—the maintenance of *true religion*, and virtue." Yet one of this Privy 'Council' is Mr. This or That, whose religion is characterized by the same Prayer book as "blasphemous fables, and dangerous deceits," and "Idolatry to be abhorred of all faithful CHRISTIANS" (thus does the Church of England affirm that Romish idolaters are only nominally Christians.) We pray then that no son of wickedness may be able to do us violence. The Jews thus do not bring any new difficulty either into our prayer or our principles.

Jewish Legislators have surely no wish to molest us: they will moreover be pledged not to hurt us; and, even if they tried, *could* they do us any mischief? By no means. Let us pause a moment, and reflect, how magnificent a structure is the Church of England! If it is quite true that of late years she has had to brave "spiritual wickedness in *high places*," and has thus lost ground THERE; nevertheless it is also true of her as it was of the Israelites in Egypt that "the more they afflicted them, the more they multiplied and grew." The British Church does not embrace the *whole* of the British people; but it includes the principal portion. The entire Population of Great Britain and the Isles in 1841 was 18,659,865. We may omit the greater part of Scotland's 2,628,957 souls; and out of the sixteen millions and upwards which remain, the Dissenters of all kinds are less than three millions and a half: and the total of those who

either truly or nominally belong to the Church of England, amounts to thirteen millions. Pompous and inflated individuals have endeavored to cut down our numbers, in vain. "They speak loftily." For instance, the *Leeds Mercury*, in its wild reckless exaggerations (tacking on a "supposed 600" chapels), estimates the number of all the non-church places of worship in England and Wales, in 1847, at 12,734. But, let us take this computation ; and we may assign for the average of congregations, the number 300, which is very fair : for, anyone who has a knowledge of the counties of England, can lay his hand on a vast succession of chapels which have each only 100 worshippers, and against the large and well-filled chapels in great towns, we must set the many of all sorts that have under 50. Multiply then the chapels by the congregations : $12,734 \times 300 = 3,820,200$ Dissenters. Even if we stretched the margin of Dissent so far ; how truly supreme still is our Church ! Her power is beautifully shown in protecting against so many enemies, that pure and most efficient, tho' suffering branch, the Church of Ireland, whose income, (the Abp. of Armagh has only £9,871,) tho' returned at £734,506, is not more than £500,000, and is only one third of the income of the priests, as an Irish Income Tax alone could satisfactorily prove. A most important historical circumstance, explanatory of the rights of the Church of Ireland, is contained in a remark written by a fierce enemy for another purpose : "In 1776, nearly half the inhabitants (of Ireland) be-

longed to its communion, but now it numbers but one ninth." The following was written, July 7, 1690, to King William the Third, by his wife, that most estimable and admirable woman, Queen Mary; and if the sentiment was valid in the days of dereliction, much more does it hold good in the present days of ministerial faithfulness: Her Majesty says, "I must put you in mind of one thing, believing it now the season, which is, that you would TAKE CARE OF THE CHURCH OF IRELAND. Everybody agrees that it is the worst in Christendom. There are now bishoprics vacant, and other things. I beg you would take time to consider who you will fill them with. You will forgive me that I trouble you with this now, but I hope you will take care of those things which are of *so great consequence to religion*, which I am sure will be more your care every day, now that it has pleased God to bless you with success." Long then may the Church of England manifest her strength by sustaining the Church of Ireland! the bond of aid can only be broken by a 'Repeal of the Union,' and hence arise all the 'Conciliation' outcries! We may mark a few symptoms of our strength. Observe the Church's Missions. If we count only half the incomes of the Bible and Tract Societies, and one fourth of the London Missionary Society, as contributed by Churchmen: and if we add the revenues of our Church Missionary, Jews' Society, Colonial Church Society, Young Men's Society, Christian Knowledge, and Propagation of the Gospel Societies, together with an

Annual Queen's Letter (usually for the latter or the National Society, &c.); we arrive at a grand total of £410,000 per annum, not to speak of that immense mission, the Colonial Bishoprics. This is not as much as we ought to do : still Dissent does not rival us, for its united contributions to Missions in 1842, were not vaunted higher than £215,940—and I think the Missions of Dissenters are their most creditable acts. Again : the National Society's Report for 1845, p. 9, says, the “ following striking facts, collected out of the recent volume of Minutes of the Committee of Council, will show what has been obtained out of the Parliamentary Grant since the Society's last Report, by the exertions of Churchmen :—

“ Statistics of Applications for aid from Parliamentary Grants in 1843—44, for Schools in England and Wales,

Description of School.	Number of Applications.	Grants awarded.		
		£	s.	d.
National (CHURCH) ..	438,	70,554	12	3
<i>British</i>	16,	2,519	9	6
Church and Parochial ..	2,	115	0	0”

We can simply say of this, that if any “ have not,” it is because they “ ask not ;” and, they ask not more, because they are not more, being relatively weak. Again : the Church-rates which were quietly collected in the year 1839, in spite of that which was then thought a defective state of the Law ; were £506,812. The last computation of the Clergy made them be 15,679 ; probably now they are 18,000. The income

of the Church of England is £3,490,747; none of which is drawn from the people or the Taxes: it is all her own property. Her new churches arise with most auspicious speed; 1061 new churches had been *consecrated* from the year 1801 up to 1842: not to speak of the huge supplement of unconsecrated and merely *licensed* episcopal chapels and school-rooms. The Church's field has during the last five years been gloriously extended. Her Baptisms have stood the 'Registration' shock much better than was looked for. Her Confirmations are everywhere amplified; and eleven twelfths of the Marriages of the country are celebrated within her walls. Take also the year ending June 30, 1838: there were 111,481 Marriages; of these, 107,201 were in the Church, and the others of all sorts were only 4,280, namely 2,977 in registered places of worship, 1,093 in Registrar's offices, 76 between Quakers, and 135 between Jews. She has good congregations wherever she has good ministers; and both in her Clergy and Laity in general, it is admitted that the Church is exhibiting remarkable vitality. The pious and excellent Mr. James of Birmingham, altho' a decided Nonconformist, allows this, in his recent work on "An Earnest Ministry," p. 244; he says the Clergy are "instinct with life, and a great deal of it, life of the best kind—I know their labors, and am astonished at them." Then, as to the Wesleyans, we speak NOT in any ill spirit towards them, when we state the fact, that they are decreasing,—the decrease in 1847 being in Great

Britain 2,089, and in Ireland 2,913; for the Wesleyan Methodists are fast “*churchifying*,” as the *Eclectic Review* for Aug. 1846 (to use another phrase of its own) “deponeth;” and tho’ they are the largest denomination of Dissenters—for such now they are as a body: they have only 464,315 members; but this includes all the members in Jamaica, Canada, &c. The Wesleyan members in *Great Britain* are only 339,379: in Ireland, 24,633. There are in Great Britain only 1,185 Wesleyan Ministers, for we must not add their ‘15,000 local preachers,’ home and *colonial*, and ‘30,000 class leaders,’ any more than we could count as clergy our fifty-fold greater aggregate of Parish Clerks, Churchwardens, School masters, School Committee men, Lay Agents, Scripture Readers, Catechists, District Visitors, and leading Communicants. The Independents and Baptists are respectable, but few. (This point, the weakness of Independents and Baptists, is forcibly exhibited in a well-written little work, published by Painter, 342, Strand, 1842,—entitled, “Statistics of Dissent in England and Wales, from Dissenting authorities; proving the inefficiency of the Voluntary Principle to meet the spiritual wants of the Nation.”) A large mass of both the casual and ordinary hearers at the chapels of the Wesleyan, Independent, and Baptist denominations, are semi-Churchmen. The Independent chapels in England, in 1847, are by a friendly hand swelled to 1800, and in Wales 640; that is, 2,440 Independent chapels, in all. How small is the

number! we trace here no more than 732,000 souls, young and old, adults and schools. The same magnanimous person writes down the Baptists at 1435 chapels in England, in Wales 312; in all 1747 Baptist chapels: these are the index of only 524,100 people. I do not make these remarks in the least ill-naturedly towards the many worthy Christians and estimable individuals in those Protestant denominations; I merely bid Truth do justice to the Church, in a strictly statistical elucidation. There are only 30 "Lady Huntingdon" Chapels. And, while the Dissenters must, from the nature of things, be measured at the outside by their chapels, the Church must not be meted by even the capacious expanse of her Church-accomodation; the entire residue of the population is ours, however much of it is bad and indifferent. That my computations cannot fairly be carped at, may be proved from the admission on the part of the Baptists, that the "gross number of members in 759 chapels, is stated to be 85,148, being an *average of 112 members* in each." Thus also, that I do not overstate our strength, I shall gather from even the "The Protestant Dissenters' Almanack," for 1848, No. 1; concerning which work I am sorry I must say, that it is full of the most satanic misrepresentations. Such an adversary will of course make the worst of our case. Nevertheless, he *quotes approvingly* from the Congregational Magazine, 1835, the following, "it appears, from the best authorities, that the number of episcopal chapels in England is

11,825, giving to the established denomination 3331 more places of worship than are possessed by all other denominations united.”—*This* leaves ALL the Dissenting chapels only 8494 in number: multiply them by 112, and we have less than a million Dissenters in England; or, I say, multiply them by 300, and we have only 2,548,200 Dissenters in England—to which I add about a million, to be on the safe side. So clear is our vast preponderance! The inaccuracy of the large numbers often boasted of by our opponents, may, from even the above Almanack, be soon exemplified, and on disadvantageous ground, namely, Wales, where former neglect has much weakened the Church. The population of Wales is taken at a million. The Rev. W. Jones, the worthy perpetual Curate of Nefyn, modestly estimates the total of persons frequenting the services of the Welsh Church, at 200,840. To these figures the Almanack demurs; saying that “out of every *nine* persons who attend Divine Worship (which almost all do) in Wales, only *one* prefers the ministrations of the National Church.” The way, however, in which this wild allegation is substantiated, is by a Summary which is given of all the sects, whose entire numerical strength not even this scribe himself can swell beyond 558,780,—so that, after all, his *eight ninths* of a million must come (by his own showing) down to *half* a million!! this latter sum also being of itself a sheer exaggeration. So much for this magniloquent foe. In like manner, the confident boastings of Romanists are soon brought down. We

may illustrate our own case from that of America. There have been many traveller's stories, told by Marryat and others, concerning the alarming spread of popery there. Yet the truth is that in the United States there are only 512 congregations of Roman Catholics; while there are 950 congregations of Protestant Episcopalians, 1300 of Independents, and 3744 of Presbyterians, and 8973 congregations of Baptists. So also in England, the Romanists are quite inconsiderable; what if there be '666' priests, and what if 500 'cathedrals' and chapels (nets that would fain be filled) have been run up by Propaganda funds in England, within the last 40 years, in addition to *the disproportionately contracted amount which they had previously*: for, now they are over-built: still, when guaged by their own data, they are very little: and Hartwell Horne says, "we do not sympathize in their dreamy anticipations. To the increase—*asserted* increase, we mean—of Romish Chapels, we can oppose the *actual* increase of Churches." Dr. Wiseman boasted in 1844 that 54 Roman Catholic Chapels had been erected during the previous six years; and what then? The proportion is like that of which we see a curious exemplification on the face of the map or Plan in the Lord High Scavenger Edwin Chadwick's highly interesting Sanitary Report to Government, (1843) p. 133, and 272; giving the area of London burying-grounds, where the Church comprises nearly the whole, and almost to the exclusion of the Romanist. Let us briefly scrutinize the same; since

it supplies us with so clear and startling corroborations. We there see that the extent of space for single-grave intra-mural interments, required for the Metropolis, is represented by 420 squares, each an acre. The deficiency of proper room amounts to $20\frac{1}{10}$ acres. Of the remaining $218\frac{1}{10}$ acres, the *Jews* have the very adequate and decent proportion of $9\frac{2}{10}$ acres, giving only 33 burials per acre; there being 304 annual burials of Jews:—this $\times 50$ would show that there are 15,200 Jews in London—for about half the Jews of Great Britain are in London. Next, we see that the “Swedish Chapel” denomination have $\frac{1}{10}$ of an acre, and 10 burials per annum. The “Undescribed” have $10\frac{9}{10}$ acres, and 3197 burials; most of these are supposed Churchmen. The “Private Grounds” show $12\frac{6}{10}$ acres, and 5,112 burials, being 405 per acre; and the Rev. John Blackburn (Independent Minister) testifies hereon, “the greatest portion of the persons buried in these grounds are *not Dissenters at all*,” to which Mr. Chadwick adds, these grounds “are repudiated by the most respectable Dissenters.” The fact is, we here stumble on the caput mortuum of the lowest of our ‘Church’ Nothingarians, the foul pell-mell of death. The “Protestant Dissenters’ grounds” are $8\frac{7}{10}$ acres, with 197 burials per acre, and 1,715 per annum. Multiply 1715 by the scale of 50, and we have a TOTAL of 85,750 Protestant Dissenters of all kinds, in the Metropolis. There is enough reciprocity of Church burials among Dissenters, and vice versa, to justify us in taking the figures as we find

them. What then are the bonâ-fide Church burying grounds? They are no less than 176 $\frac{3}{10}$ acres, with the average of 191 burials per acre, and the annual number of Church burials is 33,747!! Multiply this by 50, and we have 1,687,350 "Church" people out of the London population,—besides the many belonging to us in the foregoing divisions: and the "New Cemeteries" 3,336 burials, and Vault burials 789, per annum, are not included at all, tho' it can be proved that they are principally *Church*. What then is the size of the Romanists? The proportion of their annual burials "per acre" is vastly larger than *any other*, being 1,043; but this, like their 'Catholic' boasts, reads the other way; it is only a sign that they use none almost but their own ground: for the space itself is no more than THREE TENTHS of an acre: it is only a little black spec on the face of the map: and the "annual number of burials" of Romanists is only 270. This multiplied by 50 gives only 13,500 Romanists in all London's two millions. There are more Jews than Romanists in London. Still, *how comparatively inoffensive have the Jews been towards us!*—just as the Romanists in London have spread themselves out with chapel accommodation for 11,320, which is more than *they* require; while the Jews have quietly their synagogue-room for 4,840. Let us continue this view. The indefatigable Mr. Joseph Bentley, in his "State of Education Crime, &c." p. 65, speaking of the County of Worcester, the Population of which is 233,484, gives us the following

“Table of Places of Worship in the County,

Denomination.	Number.	Sittings.	Weekly Services.
CHURCH	223	75,075	381
Baptist	30	7,152	74
<i>Roman Catholic</i>	10	2,710	20
Friends	7	1,372	17
Independent	13	5,299	30
Lady Huntingdon	10	4,390	23
Methodist Association	4	631	12
Methodist New Connexion	8	2,846	32
Methodist Primitive	13	1,904	36
Methodist Wesleyan	37	9,596	93
Unitarian	8	2,220	15
	—	—	—
	363	113,195	733”

It is only among some of the 400 towns of England that Dissent seems to approach us: (in Wales according to one authority there were in 1835, 998 churches, and 1091 *chapels*—but the latter are mostly very *small*); it is in the breadth of the 10,000 rural districts, that the Church preponderates. In London of course every novelty is full blown. And still we may see the result. In the year 1377, the population of London was 35,000; but in 1841 the London circle included 2,103,279. There are for all these souls, 834 Clergymen; and 441 other ministers of all kinds. The London City Mission Magazine for Jan. 1843, gives the number of the sittings (*not the seat-occupiers*) in the places of worship:—

Church351,290. **Foreign Churches** 3,834.
Independents93,316. **Romanists**11,320.
Presbyterians.....9,369. **Unitarians**5,416.
Baptists46,334. **Miscellaneous** ..16,809.
Methodists57,478. **Jews**.....4,840.
Quakers5,018.

Total Accommodation, 601,418

But the *Congregational Magazine* for Dec. 1832, made the chapels, including Quakers, Romanists, and *every* grade of seceders, be only 186, within the Tower Hamlets, Finsbury, Marylebone, Westminster, and Southwark; and then the actual congregations assembling on an average, were calculated to only amount to 400 persons in each chapel: which would give a total of less than 75,000 *live* dissenters then in London, (compare p. 55, *supra*.) By a return in 1835, there were in Lancashire (the most popish county) 81 Romish chapels; but there were 287 churches. In Huntingdon there was no mass house; but there were 34 chapels, and 74 churches. In Rutland there was no mass house; but there were 13 chapels and 40 churches. In the county of York there were then 46 Romish chapels, to 809 churches: in Northumberland, 19 Romish chapels; in Stafford, 21; and in London and Middlesex there were 21 Romish chapels to 268 churches. If we ask, not some Protestant authority, but the *Catholic Directory*, published in 1847 "for 1848," and including hopes as well as facts: we are told with a bounce that there are in England and Wales 545 Romish chapels,

in Scotland 85 ; and 22 stations : making a total of 630. But this only manifests that they have *not twice* the number of the confessedly small sect of Quakers, whose meeting-houses are in England 346, in Wales 9, in Scotland 4, namely, in all 359. The Romanists are only just three times the dimensions of the Unitarians, who have 202 chapels in Great Britain. The Romish *Priests* in England and Wales are set down at 707, including all the recreant Puseyites, coming and going, and all the wandering Jesuits; while Scotland with great exactitude is made to have 99 priests. This includes their ‘bishops’; and thus there comes before us a sum total in Great Britain of 806 priests. The *John Bull* stupidly calls this a “goodly array”; wondering after the Beast, without cause. For tho’ there are 38 Convents in Great Britain, there are only 4 *Monasteries*, and 11 ‘Colleges,’ and we must collate the 630 *chapels* with the 806 *priests*; whence we see much more than one priest to a chapel. Making every allowance on the score of the Romish love for a priestly staff; we trace here the very particular secret, that their forces are an army of exploration, and not a garrison of occupation. Deducting the “22 stations,” we find by their own vaunted figures, that there are 200 more priests than places of public worship. Moreover, what population do their 630 chapels indicate? Many of them are extremely small, and they have always a miserable ‘draggletail’ of half-Protestant lookers on : the most ‘Catholic’ calculation by Rome’s own “vaunting am-

bition," cannot with truth strike the average higher than 300. This sets us a plain sum,

630
300

189,000

What are, less than 200,000 Romanists, in Great Britain, out of 18 millions? So much for the power of our fiercest enemy, 'Catholicism.' The above parties have, one way or the other. done their worst, against the Church; and what do we see but that *all the men whose hands were mighty have found nothing?* These few facts are sufficient to illustrate the church's strength; and to demonstrate that it is impossible for a few Jews to do us any real harm.

We view then the general state of the case. Speaking of England only, First, we see the Established Church, in all her magnitude; where the Clergy form a radius, and the bulk of the best people of England are embraced within the circumference. This is the Church's definitive sweep. Outside of her holy bulwarks, there is, Secondly, the limbus of many a genteel infidel who lightly calls himself by her name. And again, Thirdly, beyond her outermost pale, there is the penumbra of Protestant Dissent. Fourthly, there are the Quakers, Socinians, Romanists, and others. So far, all are free from Parliamentary disabilities. But then, Fifthly, we see the Jews? What shall we do with them? Without waiting for us—*We must come in, say the Jews, and now we begin to force ourselves in; and strictly, it is Dissent, no thanks to it,*

which lets us in! For of the five above-named departments, the last four are together too large to be slighted. And so far from us Churchmen being able to gather up our forces, and keep *all* the others out; there is a huge body of stanch Churchmen themselves, who would not take part in any such act. It is mere vaporing to say, We are stronger and bigger, and we will thrust others out, and put them down! Such physical-force plans might have looked very suitable in the days, A.D. 1066, when Stigand, Archbishop of Canterbury, turned out in Swanscombe wood, and frightened even William the Conqueror out of his wits. But these are now the days of gentlemanly diplomacy, when a man is civilly bowed out of all his rights; and the worst of it is, he must smile at it, and look good-tempered. However big we may be, the stern beldame Necessity has got her iron hoof inside of our threshold; and, do our best, we cannot shut the door in her face. Still, just as "God and St. George" was the furious cry of old: we may now with equal fervor, and more suavity, adopt as our motto, "The LORD of hosts *is with us*, the GOD of Jacob is our refuge;" and the more we are debarred from violent measures, the more shall it be seen that our victory is "not by might, nor by power, but by My SPIRIT, saith the LORD of hosts." This must be *our* diplomacy. Thus must we noiselessly nullify our opponents. Sir Robert Peel affirmed that "the battle of the constitution must be fought in the Registration courts;" so also the battle of the Church is to be fought

in her Ragged Schools and Cottage Lectures and Bible Classes, and in the still more vigilant attention of her Ministers to the temporal and spiritual wants of the people, “both publicly *and from house to house*,” throughout the land. If former neglect on the part of the Church *caused* the Dissent which makes an opening for the Jews, and if all this is an abscess in “the Constitution ;” then we must not keep it in, lest it also breed a gangrene, but we must let it out, that it may subside.

Still the Church at present is not at all responsible for this incongruous state of parties. She quietly moralizes on them, and takes them as she finds them ; and being unable as yet to repress their salient properties, she hopes to mould them in time by prudence to her views. If in the mean time they all get into Parliament, she cannot help it. As Tories, we will say, we do not like these recent events at all ; they are extremely unpleasant and uncomfortable : but what are we to do ? grumbling at things, does not alter them : here they are, however ugly. It would not be very wise to sit down like a Turk, and smoke, and say, It is nothing ! Let us look the difficulties in the face, and make the best of them. In her firmest Conservative mood, the Church at least may say—I admit the Jews, because I cannot avoid it : I scarce do it with a good grace : previous events leave me incapable of resistance : I admit them because I find them : I admit Jews, because Jews there are : I did not make them Jews, nor do I wish them to remain (unconverted) Jews ; but simply there has been a

radical stepping-stone laid down, and they avail themselves of it. So that my tactics must now be of a new kind. I must accommodate myself to the circumstances, and see whether it may not be a great and blessed incident, for me to be brought more into company with the Jews, who are "beloved for the fathers' sakes."—Here is no negation of the Truth as it is in JESUS. This is not to trample on the Cross ; but it is to hold the cross up in the face of the Jews more prominently than ever, in the best way that is now practicable, so as to augur a complete onslaught on the very citadel of Judaism. It is "to turn the hearts of [them] the fathers to [us] the children," Luke i, 17 ; and "to make ready a people prepared for the LORD." Nor can we exactly say that *we now let* them in : for if it is true, that, when a dyke is broken through at one point, it may often be long before the inundation reaches the city,—so also it is plain that the real breach was made some time back, and the Jews merely now flow in at our feet. Perhaps the sweltering tide itself may soon make us all more *one*. Just as Roman-Catholicism has sunk, in the Irish Members ; and just as Dissent has transparently lost its power, in its M.P.s : so also we may expect to see the like in the Jews. "Let both grow together until the harvest !" Men can do nothing against the Truth, but for the Truth. Possibly it is in this circuitous way that we are to compass the repeal of "Roman Catholic Emancipation," and other obnoxious statutes ! We are to get people to be all

of one mind, not by our declining to take notice of the dissentients, but by our drawing them out, and parading them off, and then freely using "the sword of the Spirit, which is the Word of God." *Then* "the people shall be willing in the day of Thy power!" By such means alone can we win our way back to supremacy. So thus the admission of "Jews, Turks, Infidels, and Heretics," only provides the Church of God with materials wherewith to conduct her holy war. Now is the time for her to show that if, on one hand, "the vile person [in comparison with her] shall be no more called liberal," (Is. xxxii, 5,); on the other hand, "the liberal deviseth *liberal* things [especially *towards the Jews*, the people of prophecy], and by liberal things shall he stand."

If it be retorted, You cannot say that you take things as you find them, when you *add* this new measure of the admission of Jews, to the existing confusion? I would reply, This slight advance is no more than when a limb is shattered, and the skilful surgeon cuts still lower, and amputates the stump a little further down, to make it smooth and safe: and by so doing *he* is not responsible for the original accident! Nor can it be alleged, that this is to make the end sanctify the means; for that would suppose that the means are quite in our control, which is not the case. And if this is the plea of Necessity, it is not (as Milton calls Necessity) "the tyrant's plea;" except so far as that we are its slaves, the passive and not the active exponents of it. The measure is not open

to the reproach of doing evil that good may come ; if it *be* evil, *we* do not *do* it, nor concoct it, but it is *done* for us,—and being done, we trust “good may come” of it. We merely hold that a certain thing comes inevitably to be done, which we would once have deemed evil, but which now we are conscientiously reconciled to, judging that it must be a matter of Providence’s bringing about ; and if in any of the stages there be evil—if the enemy *hath* sown tares in this field,—then, God will make all things work together for good. It is quite common and allowable thus to value *results*, altho’ the preceding transactions of others may not be approved of. We are sensible of this principle in the highest possible manner, when we see that God has made the Murder of the Messiah be the salvation of Mankind. We do not rejoice that CHRIST had to *suffer* and be slain ; but we rejoice that He voluntarily submitted to those pangs, and we exult in the blessings which His Blood procured. This deep and mysterious point was most interestingly brought out in a letter of last Oct. 29, from the Missionary at Amsterdam, the Rev. C. W. H. Pauli, who says, “two Jews came. They said, ‘We have heard you say, that the only cause of our being in captivity, and our land desolate, is, because we have rejected CHRIST and delivered Him to be crucified ; but, *if we had not done so, you Christians would have had no atonement for your sins !*’ I entered largely into these vital queries, and they kept during the whole

time the most profound silence. At parting I gave them a copy of the Bible and a Liturgy. O if our friends in England were but eye-witnesses of such missionary labors, I am sure they would feel themselves stirred up to renewed exertions and fresh sacrifices in this great cause." The awful truth in question is summed up in CHRIST's own words, "FATHER, forgive them, for they know not what they do!" So, we are glad that Redemption is coming to the Jew; but we do not make ourselves apologists for the things going before. As to our boast of National Faith, it has been erased, and instead is written Ichabod, *the glory is departed!* Why then will well-meaning men persist in saying that they 'do not wish Religion to be lost sight of' in our Legislature. Yes, but, one must almost pettishly say, Are you so ignorant as not to know and see that it has been lost sight of already? Take a test of this. Suppose a grant of public money was proposed to be made to the Church: then the dissenters must have a share too, some dissenters even would not let anyone get anything, because we are too large and get too much; while other gentlemen would furiously vociferate that money given for Religion is all thrown away!! Such is the painful scene; and let us learn by it. Now, the Jew could look on calmly: he has no idea or expectation of Judaism becoming rampant in England, or spreading (like Esth. viii, 17, "and many of the people of the land became Jews"): he knows we cannot insert ourselves into his stock: he has no hopes of positive proselytes: so he

will let us alone much more than a half-Christian would: he has no personal object to injure the Church or alter it: and once the Jew is pledged, he will treat our Christian institutions with respect. Some may complain, That we ought not tamely to give up this point, opening thus the sluices of republicanism wider, but that we ought to be inflexible, and "strengthen the things which remain, that are ready to die." Now, it is a true and good conservative motto, "to strengthen the things which remain," (Rev. iii, 2); but then, I say, the exclusion of the Jews is *not* one of "the things which remain": it is one of the things which *do not* remain: it is virtually taken out of the category of pending questions: nor is the Church's cause "ready to die"—the Church is living, and "terrible as an army with banners"! so much so, that (Is. lxvi, 21,) God "will take" of the converted Jews "for priests and for Levites," and they shall thus *receive back* the Christian priesthood, by ordination, from the Gentile Church—so fully, we say, is the Church itself endued with life. And thus the Church must not now be confounded with the Nation.

The arguments against the measure would seem to suppose that the admission of Jews into our *Parliamentary* Constitution, was letting them into our *Church* Constitution. They might be going to take, not only their seats in the House, but also Holy Orders! Men speak as if by the Admission of Jews into the Legislature, we were going to have Rabbi Stein in our desks, Rabbi Lehren in our pulpits, and

the Most Rev. Dr. Adler at our communion tables! Nay, our *Church* is inviolate; and we only let the Jews bring to a head in *parliament*, that headship which exists already, and such as in the case of the sects has culminated thither long ago. To agree to this is to confess a political necessity, which exists all the same, even if some shut their eyes to it—loving to keep themselves in the dark. It is only a practical acknowledgment of the simple tale, that the things which are multifarious, are not uniform! nor is there thus anything more in the Jews having a footing in Parliament, than their having a footing on our shores. We can no more banish them from the one than from the other. Some may inappropriately object, that the measure is the same as to cast pearls before swine—as if the Jews would then trample on our Church—which, however, they cannot do, if they wished! ah, it *would* be better for us not to throw away our pearls, that is, we should cease *laying down* a fine flimsy theory, which the “mire of the streets” is already deep enough to swallow up. We must descend from the Pegasus of etherial ideals, and come down to the plain vulgar realities which are now enacting on old England’s surface. But I cannot assent to Mr. Macaulay’s view, when he says, “The points of difference between Christianity and Judaism ~~are~~ very much to do with a man’s fitness to be a bishop or a rabbi, but they have no more to do with his fitness to be a magistrate, a legislator, or a minister of finance, than with his fitness to be a

cobbler. Nobody has ever thought of compelling cobblers to make any declaration on the true faith of a Christian. Any [Scotch] man would rather have his shoes mended by an heretical cobbler, than by a person who had subscribed all the Thirty Nine Articles, but had never handled an awl. Men act thus, not because they are indifferent to religion, but because they do not see what religion has to do with the mending of shoes. Yet religion has as much to do with the mending of shoes, as with the budget and the army estimates:" still, I *have heard* of "exclusive dealing," whereby a bad high-church 'cobbler' gets more business than a good dissenting crispin :—however, Mr. Macaulay adds, " Why a man should be less fit to exercise legislative power because he does not eat ham, because he goes to the synagogue on Saturdays instead of going to the church on Sundays, we cannot conceive." This cannot be good logic, while the State offers the oath (not to disturb the church) to all new comers. Therefore Jews *might* otherwise "exercise legislative power" *against* "religion." Still Mr. Macaulay positively approves of the disconnection of the two things, religion and legislation. But, while I do not grudge the Jews that which now they get, I am sorry that the state of parties in general has come to such a pass as we see. I only say that things are incongruous ; but I am not glad that they are so. If the Jews are spiritually improved thereby, I can single out *that*, and sincerely rejoice. But there is no need, while I allow that the

Fire of London cleared away the Plague, that therefore I should see beauties in the smoking conflagration. Mr. Macaulay however crows and cackles at the crackling of the flames; he absolutely likes the fire, and warms his fingers at it! Perhaps he or his cobbler (*ne sutor ultra crepidam*) would tell me—‘So you would deny to Dissenters what you can grant to the Jews?’ Not quite: for I could fancy such a case as the Church established, with all the power of the country (as she is the majority) exercised by right through her sons, and thus we should be nationally religious; while all the time we might be lenient towards seceders, Jews and all, allowing them every liberty and toleration except the possession of power. I could suppose the country acting on a sense of the unreasonableness of the divisions which exist; like as Dr. Johnson contrives to bring into his lexicographical definition, the pithy rebuke, “Dissenter.. One who, *for whatever reasons*, refuses the communion of the English church”. We might let English separatists hold their own opinions, and welcome; and if they do bereave themselves of our Church privileges, they *do* bereave themselves, and there is an end of it. The Nation could be imagined to require in its legislators the principle of the mild and decent First Rule and Regulation of the London Society—that its Officers must be “members of the United Church of England and Ireland, *or—if foreigners—of a Protestant Church*”—thus gently excluding all the home sectaries, without thereby at all making Episcopacy

necessary to salvation. I could fancy all this handsome Utopia; and this is what I would like, if it could be. I would make it so, if I honestly could; hoping to quench and cancel all opposition *persuasively*, so that no antagonism might remain. I do not volunteer an approval of anything that falls short of this. As to the present state of things, tho' I now can make the best of them; I do not abstractedly admire them. I wish I could dispose them into what I like. But this goes not beyond the wish. To think to *act* on it would be about as wise and practical as to sit down and *wish* that there were no Dissenters, or to *wish* that all the world was in my own church. Would it were so! *but it is not*; wherefore I give up my theory, except so far as one's private predilections go. It is most desirable that all our Rulers should be free from irreligion; but are they so? Why treat the case then as if they were? It is very different to enjoy with Mr. Macaulay the deadly inundation itself; and, to take pleasure afterwards as I do in one lovely flower which springs out of the mud that the waters have left—such is Israel's regeneration. I should delight to see Religion and Legislation going hand in hand. But they *are* not so, nor *can* they be so at present. Hence, I say, it is unfair, unreasonable, and false, for men to array their fine antiquated axioms against the Jew; I cry, 'fair play for the Jew:' we must not stop *his* way with an obstacle which the state of things does not warrant.

The disgust at the Jews, which some affect to feel;

is most unjustifiable and unchristian. Our Lord Himself assumed Jewish humanity, and He frequented the Jewish synagogues, (Luke iv. 16,) "as His custom was"; and even after that His Death had unchurched Israel, the Apostles repeatedly entered the synagogues, Acts xvii, 2. Wherefore, to loathe, as some do, the presence of a Jew, when he rises into the same share of power that is open to all others; is only the indication of a most malignant heart. If it be said, 'True, there are many infidels in the House; but that does *not* show that we should have Jews also?' Then, I meet that allegation with a point-blank contradiction; I take it on its own ground, and show, that one might as well say, that the mortification of a finger was *no reason* that the disease should spread (as it will do) to the whole arm, or the whole body! I beg without arrogance to affirm, that the presence of senatorial sceptics does most absolutely and directly allow the presence of Jews. We can make nothing of the fact of infidels having had to swear "on the true faith of a Christian:" does *that* give them a true Christian *faith*? If infidels have passed muster as Legislators, 'only by their thus recognising the Christian faith:' this does not save us from their *being* infidels: they *are* such: and surely, we can make no argument of their horrible hypocrisy? their lie will not make us be "the righteous nation which keepeth the truth"! As to the precept of 2 Jn. 10, "If there come any unto you, and bring not this doctrine, *receive him not into your house*;" this holy

enactment was, by the Admission of Papists, broken by the hands of England, as summarily, as when Moses dashed the tables of the law into pieces. The worthy Vicar of Gainsborough, Mr. Bird, complains that we are going to have "Parliament unchristianized." Yet, what is this but the tenor of the Pharisees, "We be Abraham's seed, *and were never in bondage to any man*; how sayest Thou, ye shall be made free?"—which words were most incorrectly uttered at a time when Judea was completely in subjection to the Romans! O, indeed, the 'Jew calls CHRIST an impostor.' But, is there no one else in power, of Socialist or Barkerite or Deist *free* 'principles,' who as distinctly brands Him with the term "impostor"? Will a Jew *unchristianize* us, any more than ANTICHRIST does already? as when the late Pope pronounced the *Virgin*, (and not CHRIST), the sole ground of his hope!! Which is the more removed from Christianity, this, or any tenet the Jew holds? who so unchristian as the followers of Antichrist? Is there no one in power who maintains with Dr. Priestley and Belsham, that CHRIST "died for His own sins"? And what essential difference is there between this, and the "Jew who calls CHRIST an impostor"? Why then say that the Jew *will unchristianize* us? It is all very well to produce Professor Eisermonger's work (1704) on the Laws of ~~the~~ Jews, the circulation of which stopped their emancipation at Frankfort. If the Jews have harsh "laws" against Christians, have not *we* had the same against them?

is it not natural that they should have retaliated? and is it not likely that now they will do so no longer? besides, what power have they? Is there the least fear that they will "split open the nose" of a Gentile? I would ask, Is any Jewish bye-law as ferocious as the Bull *In cœnâ Domini*? and yet we have in the House a troop of *comburendis hæreticis* men! thus with neither reserve nor decency Lord Arundel and Surrey *owns* that he pants for the extirpation of Protestantism: and does he not know that Dens' Theology asks, "Are Heretics justly punished with Death?" to which the answer is "Yes," and this immane affirmative is made to be justified and proved by the condemnation of John Huss!! No Jew is as bad as this; since his musty threats are not backed with any Smithfield fires. The faithful *Achill Herald* observes on the Oxford anti-Jewish petition, "we cannot see moral virtue in this movement. It seems to us supremely ridiculous to agitate such a question at all as the exclusion of Jews from Parliament. Deists are welcome to all senatorial dignities, we think we might say Atheists have not been scrupled at, when for form's sake they consented to take the usual oaths. Yet the zeal of Oxford was never kindled against the admission of such men into the House of Commons. At all events Popery is not objected to, and there is no petition on that score from the University. *We* think a Jew is as good a man as a Deist; he is a pure Deist. We think Judaism much better than Popery, and a Jew in every social and moral relation a better

subject than a Papist. In religion, the former, 'tis true, does not believe in CHRIST, he is a candid disbeliever in Christianity; yet he is not an idolater, he is not the slave or the associate of a malignant system which works by cord and dagger where it cannot work by more facile means and more honorable to attain its ends. The latter (the papist) is a pretended believer in CHRIST; and, *whatever are* the peculiar points of Christianity, article by article he *denies*, in express words and religious practice; he serves other mediators, depends on other atonements, multiplies images in his sanctuary, kneels in the confessional before an UNSOCIAL man, a man cut off from all the feelings of nature, receives the law of life and death from his lips, and is taught to acknowledge, and *does* acknowledge no supreme authority on earth in things temporal as well as spiritual, but the head priest of Rome! Now we simply ask, which is the more dangerous character to the state, the Jew who has nothing ulterior in his motives, or the Romanist whose loyalty and morality are governed by the will of one who is the enemy of God's truth, severed from all the rightful ties of humanity, and swayed by one only motive, that of supreme ascendancy. If Oxford wishes to gain credit for sound principle and constitutional zeal, let her petition against Popery, against *its* admission into any participation in the senate or government of our empire. To its present position we attribute—and with very solid proof—the evils and troubles which have befallen us.

Till the spirit of Christian Protestantism is restored, we can hope for nothing good in our foreign or domestic policy." This passage contains sterling truth. And I may then embody the sentiments of the opponents of Israel, into the following colloquy. I meet a gentleman, with whom the Jewish question is broached: I tell him I am in favor of the proposed removal of disabilities: he rejoins, you surprise me beyond measure: then we go over all the heads of the complex state of parties, the non-impossibility of the conversion of the Jews, and so forth, till at last we arrive at the apex of the argument, on my forcing upon him the fact, that there is no ground whereon to resist the Jews, except the old personal antipathy towards them: at this, he quickly replies "Well, I avow I DO DISLIKE THE JEWS VERY MUCH"!!! This is now the real point. This injustice deserves to be put down. For, if the admixture to-day of a few Jews, would (as is said) unchristianize us; was there not an equally unchristianizing admixture, in yesterday's admission of Antichrist and Infidelity? If one *would* taint; the other *has* tainted. So the holy horror expressed at our *now* being desecrated and contaminated by Jews, is only a covert mode of saying, "Well, I avow I do dislike the Jews very much!" Hence the obstacle which in the shape of an Oath, as a mere matter of form, prevents Jews from becoming Legislators; is merely a rag of State hypocrisy; and as that Oath, tho' in itself good, is now, *as regards the Jews*, the last representative of all

that bitter and atrocious enmity against them, with which men ran mad to persecute, rather than convert them, it is worth while to relieve the Jews from this piece of inconsistency, this fragment now of malice and prejudice, thereby to evince that we no longer intrinsically hate Israel, and to make our own infidels do homage to their betters, the Jews. The oath, then, "on the true faith of a Christian," was holy, just, and good; but now through the wretched tergiversation of the country, that solemn declaration—if held against the Jew—is reduced to a perfect farce and a nullity, "a mockery, a delusion, and a snare;" the exaction of it from the *Jews* is simply an arbitrary and unrighteous continuance of men's hereditary illusage of Israel: as such, the oath must now be modified for the Jews, even if it be done for the Jews only, like as Quakers and Quakers only are freed from taking any oaths whatsoever. Thus multiform *must* we be, till we get an altogether better state of parties. Things have come to such a pass, that the oath itself contravenes the true faith. For when the Nation requires from a Legislator, as a qualification, the test oath, "on the true faith of a Christian:" I ask, is this "*faith*" the Church faith? or is it the faith of any of the orthodox sects? No: it is the faith of *all!!!* the "true faith" of a combination of Protestants, papists, infidels, and every heresy! an aggregate faith! a compost of truth and all manner of error! This is the Nation's definition of the true Christian faith! And, *is it our* definition also? God forbid. How then can we

stand up for such an imposition? To do so, would be to deny "the true faith" *ourselves*, by sanctioning the Nation's fictitious "faith," which is only a monster of "iron mixed with miry clay." Take such 'a national Christianity,' either as a whole, or in its concatenated parts; and we must indignantly disown it. It treats Religion like a mercantile firm; as if Church, Mass-house, and Co. could constitute "the true faith." To call it the true faith, would be to falsify our own creed. Hence, we must maintain that "*the true faith*" is a definite positive reality, as it is written, "one LORD, one faith, one baptism;" and *not* a jumble of "Jehovah, Jove, or Lord." Thus is a mighty proof given at last, that the Nation cannot have a collective faith; the Nation must have THE Truth, or none. Will not this fact work us round again to the right position? We witness the curse of sowing the State field with mingled seed. Now the world must see that "true faith" is *Bible* faith. The Sixth Article of the Church of England, on the Sufficiency of Scripture, now stands out more nobly than ever, like Ararat above the shrinking Flood. Such is now the state of parties, that, even waiving every feeling of love towards Israel, it comes to this,—that, by welcoming the Jew, *We deny* that Popery is Christian truth, *we deny* that Socinianism is Christian faith, *we deny* that anything can be the true faith of a Christian, except singly and solely the Gospel of Salvation through the atonement of the Incarnate God. We discard every kind of 'extracts' Religion: we disavow every deceitful hand-

ling of the Word of God; and we renounce all the hidden things of dishonesty. We profess thus scripturally that there is but one "*true faith*," which we regret the Nation has already abjured. Our politics therefore are simply an embodiment of 2 Cor. vi, 14, "Be ye not unequally yoked together with unbelievers: for what fellowship hath righteousness with unrighteousness? and what communion hath light with darkness? and what concord hath CHRIST with Belial? or *what part hath he that believeth with an infidel? and what agreement hath the temple of GOD with idols?* For ye are the temple of the living GOD; as GOD hath said, I will dwell in them, and walk in them, and I will be their GOD, and they shall be my people. Wherefore come out from among them, and *be ye separate*, saith the LORD, and touch not the unclean thing; and I will receive you, and will be a Father unto you, and ye shall be my sons and daughters, saith the LORD Almighty." Here is an express divine warrant for the assertion I make, that no system can be "Christian," which is a compromise between truth and falsehood. The excellent Rev. E. Bickersteth, in his 'Divine Warning,' says, "in the year 1845, a Bill was brought into Parliament nationally to endow a college for the support of teachers of the Apostacy of Rome. It is especially fearful as the commencement of a series of measures for nationally endowing Popery, and thus stamping in legible characters on our laws, the apostacy and infidelity of the British nation. The similar sceptical measures, passed in 1845, for

giving Jews the opportunity of exercising municipal authority over Christians, are in the same direction, showing the passing away of the kingdom from the Gentiles, and its return to the Jews." Are these things facts, or not? Have they been done, or have they not? They *are* facts. They have been done. And *thus ends* the nation's consistency! Thus the true faith is set aside, on the very ground that Religion has no longer anything to do with public affairs. Such is the national decision. This is lamentable, yet true; it is bad, yet real. The Church is then like an Argo sailing through a whole jostling shoal of Symplegades. Let her know this, and not fancy she has good open sea-room; but let her take care, and steer clear of the rocks, with the God of Jacob for her Guide, and perhaps through her it shall yet be seen that "unto Him shall the gathering of the people be."

May not all this be necessary in the chain of God's inscrutable purposes? If we are no longer distinctively *His* servants, we do not deserve to be treated as if we were. We have done too much already, in this same style! we have left ourselves no right to speak of our *feelings being hurt* by the Admission of the Jews. Ours is now a country whose national complexion makes such a dispensation of God as this, be consistent with His general dealings with kingdoms. For the Jews to be emancipated amid such a people as we are, is a most harmonious retribution. Yes, "it is the LORD's doing, and it is marvellous in our eyes;" nor would it have been any marvel for converted Jews to rank high

among us: the marvel is, that *unconverted* Jews should rise into Parliament, in spite of all the pertinacious prejudices of the ignorant! There is an absurd fanaticism in some of our people, who are themselves anything but Christians, altho' they rave against the enemies of Christianity; these officious fanatics are now made the stones for the Jews to walk over, notwithstanding all the bigots' grinding of teeth; as it is written, "break out the great teeth of the *young Lions*." The Nation has swallowed the camel, and now it wants to *strain out* the gnat! It is perfectly disgusting to hear how some persons will declaim about the sacrilegious profanity of admitting Jews; when all the time they themselves have been favoring or giving way to the Romanists, by which very laxity of their own it is that the Jews are introduced into power in England. If those papist-loving Jew-hating gentry dislike this conjuncture, it serves them right, and "verily they have their reward." It is well that they should feel the full swing of their own loose principles; and perhaps before their sluggish hearts can oscillate back to uprightness, JEHOVAH will have already swept the covering cloud away from off His people, for He ruleth in the kingdom of men, and walketh upon the wings of the wind, and maketh the very wrath of man to praise Him, not however letting it destroy our evangelical Church, for the remainder of wrath will He restrain, forming an anthem to His glory out of the loud tumult of the human Ocean, which is told, Hitherto shalt thou come, but no fur-

ther, and here shall thy proud waves be stayed! At such a time is Israel to be enlightened through our means. Was not this a much-needed event? For, ought we not to seek the spiritual welfare of Israel? And have we done so enough? Still how are we to accomplish more? Are not our performances, as compared with our duties, as mean as if they were at a stand still? What are the thousands of Jewish converts, as contrasted with the efforts which we ought to make? In what way may we, who feel this, do more? we cannot. We fail even to get funds, much less hearts. May not God then take the matter into His own hands, and reward our apathy towards Israel, by His working out Israel's objects with our very coronets and mitres? It has been lucidly shown by Dr. M'Neile, in the late Annual Sermon, that the command, "beginning at Jerusalem," is transferable, and still in force; for altho' the Apostles, when rejected by the Jews, told them that they turned from them to the Gentiles: nevertheless, at every succeeding journey the Apostles again applied themselves to the conversion of "the Jew *first*." The Book of the Acts of the Apostles closes with such a scene; and the reasoning with the Jews, which the Apostle left off with, the Church *might* have exemplified her Apostolical Succession by continuing. So we must now begin *at Jerusalem*.—but how? The "London Society for promoting Christianity among the Jews" is good; but it is only the work of principally a few Clergy: the Society is not equal to the

whole task : its income last year (1846) was only £29,046. What are even its 93 Missionaries to the Jews ? Other denominations may give some help ; but it is all as nothing. Will God, tho' so long-suffering, pause for our tardy expedients ? No ; our guilty *Nation* must be made the tool, to remove many of the misapprehensions of His people. They must be softened by our tears, and soothed even with our shame. Is it not something to conciliate the Jews ? as we are told, "speak ye comfortably to Jerusalem." And how will they believe us, if we say that as good Christians we love them, and pray for their souls' good, and wish them well ; when all the evidences that *they* can see of it are, that on one side we try to proselytize them, and on the other side we place them under a galling political ban—will they not with Absalom say, "Is this thy kindness to thy friend ?" Let us then not murmur too much at the removal of the remaining disabilities of the Jews ; when other occurrences have already constituted themselves into an inclined plane for the Jews to roll thus into power. Will it soften the Jews towards CHRIST, for them to be *unconstitutionally* insulted with our worm-eaten artillery of "intolerance" and "bigotry," as they must view it ? Is the Romish cowl, or the Chartist *sans-culotte*, more loyal a badge than the Jewish gaberdine ? We must now act on this truth. May it not, perhaps, then strike the Jews, that CHRIST is the cause of their renovated dignity ? might it not be natural for them to say, We cannot deny that it was

the heathen Roman power that in God's hands destroyed Jerusalem, and reduced the Jews: it was among heathens that the sneers were levelled against the "verpos" and the "metuentem Sabbata:" it was amid the undoubted perversion of *New Testament* Christianity that the Jews were so much oppressed, throughout the Dark Ages: and now it is in, at least, partially, Christianized countries, that we are regenerating; wherefore CHRIST is even now the best Messiah whom we have ever had! (And will not an assent to His Atonement do the rest, making Jerusalem again a praise in the earth?) How can they any more curse His Blessed Name? Let us hear how vivid is their appreciation of their liberty, from the lips of a talented Israelite, Mr. Philip Abrahams, at a public meeting in Birmingham: he says, "but what avails it, if the Jew walk abroad, the denizen of the free air; if he, by self exertion, does not show himself worthy of his freedom? What avails it for us Jews, that we live in changed times, if we do not benefit by the lessons of the past? We fear not now the scowl of the priest, the tyranny of the extortioner; for us now the terrors of the Inquisition have lost their fearfulness. But there yet exists a species of quiet persecution, the still small voice of scorn yet whispers at our approach, the sneer of ill-suppressed derision yet lurks unbidden, even with those who willingly would more dearly love us. These things have yet to be eradicated. We are in many instances esteemed as *individuals*, we must be loved as a *body*." The Jews

have had reason to feel a soreness on this score. Why then should so *unnecessary* an obstacle continue? Why should that, which is absolutely abrogated as to principle, any longer block up the path of Love with its dead-letter deformity, and gratuitously make the Jews feel ill-used by Christians? It is not as if we were all Churchmen, and a single Jew offered himself. There are many varieties, besides the Jews. When we let them in *without* their saying, "on the true faith of a Christian" (3 James I. c. 4.); this is not to say that *we* are not Christians! it does not suppose that the bulk of our Legislators may not be Christians: let others use the words, by all means, if they can; but let the words be suppressed for a Jewish Legislator, and let *him* be sworn on the Hebrew Bible. It will have the same public end; and it only admits that English Jews *are* English Jews! Were men so blind, as not to see, that the admission of Jews to Corporate Offices, and High Sheriff's honors, necessitated an infusion eventually of Jews into *Parliament*? Tho' it is an imperative result of the present state of parties, and tho' the Jews may discern *this* as keenly as we can; still they will not take it altogether ungraciously—they will see that we *do also* thus show by a great act, the sincerity of our Christian love—*because* we scarcely agitate the country at all (not to stop, for that were impossible, but) to retard the scheme of their enfranchisement. This will substantially appeal to them. This will preach the beauty of the Gospel to them. We should be thankful that while the matter

is reconciled to ourselves by its necessity; it is yet sufficiently voluntary, to gain us credit for it from the Jews. Israel's exaltation is so gentle a scourge that we can cheerfully "kiss the rod" that smites us; and we thus hope that thereby they shall soon be taught, *nasse-cu var*, "Kiss ye the Son, lest He be angry, and ye perish from the way!" This is to fulfil the injunction, "*say ye to the daughter of Zion, behold thy salvation cometh.*"

The Jews in this country who are to be benefited, are neither *too few to mind*, nor *many enough to be feared*. Our former ill treatment of them seems to have kept many of them away from our isle. In Jerusalem there are but 7000 Jews. Russia has the chief proportion, namely, 1,139,000 Jews; in precise accordance with Jerem. xxiii, 8, which foretells that the Jews should be brought back to "their own land" chiefly "out of the NORTH country"—the same region which Ezek. xxxviii, 2, calls *Rosh*, Meshech, and Tubal, that is, *Russia*, Moscow, and Tobolsk. In Constantinople there are 80,000 Jews; in Posen there are 77,000: in Prussia 206,000: in Austria, 667,139: in France, 50,000. But in Great Britain there are only 30,000 Jews, which is 4000 less than there are in Italy, 5000 less than there are in the single city of Amsterdam, 10,000 less than in Warsaw; and even the wretched Smyrna has half as many Jews as England, and as many as London. In Liverpool there are only 150 Jewish families; in Morocco there are 340,000 Jews. There is then no sign as yet of their wanting to swamp us. That this paucity is well

known, may be seen in even the incorrect arithmetic of the *Debats* of August 1847, which states that “while England reckons only one Jew in every 2,076 inhabitants, Prussia reckons one in 74.” Hence also arose the preposterous story that a Jews’ Conversion Society in Dublin offered a reward to anyone who would tell them where there was a Jew to begin upon.

We seem by no means likely to have *many* Jewish Legislators. At the late elections, it appeared that there could *only a Rothschild* get in—that is, only a Samson, in these days of mammon power, and cash nobility. Few however as the Jews are, they must come in. But, let us carry on this view, and work it out in even a more ‘offensive’ aspect, by importation. For it is indubitably very desirable, in order to concentrate Great Britain’s strength, that we should have Representatives from the Colonies. Whereupon we look aghast—and we exclaim, Possibly some of them may be Mahometans or Hindoos? But let us grow calm and strive to say, Well then? Is the “sacred green” to *pale* our true blue? Will Sir Robert Inglis look little beside any Baboo of them all? Will it push us from our stools? Will it dis-establish the Church of England? By no means. There *are* these nations, under the British crown: these people exist: we cannot mend that: and now—*too late*, if you will, we learn, that if we disapproved of non-Church Legislators, we ought not to have ever acquired Colonies at all; we ought to have weeded the Nonconformists regularly off to the wilds of North

America, we ought to have sent English popish recusants away to the still more savage fastnesses of Connemara, and we ought to have still kept in force Edward the First's horrible inhibition of the Jews, forbidding their polluting feet ever to cross the sea-beat line of Britain. These things we have not done: we must therefore take the natural consequences: certain potent facts stare us fairly in the face: the settlement can no longer be *adjourned*: so we submit, as handsomely as we can, not at all like Cesar gathering his garments about him to drop decently—for it seems we have no notion of dying: and, when we look at the measure which thus comes upon us, we even rejoice at some aspects of the same. We go from bad to better. Indeed I greatly prefer Baron Lionel de Rothschild to Mr. John O'Connell; I would a great deal rather have Dwarkanauth Tagore in Parliament, than Mr. Feargus O'Connor. None of them however shall be able to hurt us! In short, we can thank God, and take courage, and trust that the Church of England, in spite of everything, is still not otherwise than Established, and mighty, and flourishing; while these undesired and unforeseen admixtures only provide her with a fresh store of oil wherewith to feed her lamp.

Let us then try to begin and say that we have an Established Church and many sects in the country; and not that we are now a *Christian country*. Our Christianity is in our Christians, not in the *Nation*. Would that we were a "Christian country!"

But even those who take up the indulgent view of that great and good man Dr. Hampden, must now (it seems) be brought to allow that we are not a Christian country ; for all the obloquy that he has been most unjustly exposed to from a disappointed faction, has proceeded from his giving the Unitarians the title of *Christians* by courtesy, because they “call themselves” so. Still assuredly the term is misapplied. The name which they take is a thorough misnomer. Unitarians are not Christians. So says the school of Coleridge and Dr. Arnold, no less than Archbishop Magee. And now that we are to have Jewish Legislators, sooner or later ; all must allow that we have no reason any longer to boast of being a Christian country. We are already an Everythingarian country. Since the country is such, we must positively cease to speak as if it was “Christian.” Let us not call it the very thing which (alas !) we know it is not. Let us not either argue or act upon a falsity. What earthly use is there in our fancying that we are all Tories and Churchmen, or at least that we are all Bible Christians ? are there on one hand no Dissenters, and are there on the other hand no papists, no infidels ? Can we alter it ? or, must it not alter us ? and, has it not to all intents and purposes done so already ? The contrary idea,—if it be not a maniac’s dream, and if it is to have any reality,—must follow the ferocious Caligula’s wish, that all the world had but one throat, that he might cut it, (leaving himself out as too inhuman.) Are we to keep wishing that we could

in some way or other extinguish all the separatists out of hand?—We must then cease to act as if they were non-existent. So, if a man says, *You let in the Jews*; he might as well say, You have framed all the meeting houses and conventicles, and created all the synagogues in the land! No; we find them, and we would manage them “prudently with all our power.” We should deal as Christians with them as if they are, and not as if they were not. These different people, in large bodies, paying taxes, and with religious peculiarities, have as citizens grown into political power; and now these bodies have been algebraically ascertained, in value and quantity, openly and publicly, “before all Israel and before the sun.” Hence the Church has perforce been made to know her own station; and she also knows, that she has so many Dissenters, so many Romanists, so many Jews, for her to oppose or to conciliate; and *so many of her own*, to be cemented together in love.

If now the Jews allege that “Christianity has been Judaism *for the world*,” we hope soon to hear them add it is *for them*. Nor is it visionary, to expect that an amelioration of the parties who have forced themselves in among us, may ultimately ensue. For like as the Apostle tells Philemon concerning his runaway slave Onesimus,—“perhaps he therefore departed for a season, that thou shouldest receive him for ever;” so also we may hope that the Jews and others only brave us for a season, in order that we may at last *receive them for ever*! We say with the Apostle “*perhaps*” when

“one that believeth not” comes unbidden and unhindered into “the place” or position where, not indeed all, but some, are Christians: he may be “convinced,” (1 Cor. xiv. 25,) “and thus are the secrets of his heart made manifest; and so, falling down on his face, he will worship God, and report that God is in you of a truth.” This *is* of course a very circuitous method; to let men in, that we may get them out. But, we cannot help their getting in; we have simply to remember that they let themselves in; and then *we* trust to get at least the Jews out, both out of Parliament and out of England, namely, to Palestine, and to CHRIST.

We need not be in fear of this little revolution bringing it to pass that the popish titular bishops, any more than alien noblemen or mandarins, can get into the House of Lords. Our prelates have either a ducal or a baronial *right* to be there, and are the senior peers of the land; to lose them thence, would, as introducing a reign of spiritual tyranny, be a real calamity to the church and to the empire. The Archbishops, if *not* in the House, would be too powerful. They must then be humbly consulted by the Government about every important measure, and they could virtually *veto* all things that they disliked. They could not be overturned themselves, and they would tacitly subvert the supremacy of the Throne. They would be of more importance in the land than the Prime Minister. All the moral power of the country would run up into the hands of the Primate,

who, instead of a quiet prelate, would in self-defence be converted into an active demagogue, far more unmanageable than the great *Gloriagocheen* (or wren, in Irish) of St. Jarlath's ; while the mitre would most lamentably jostle the crown. The episcopal people of England *would have* their bishops and archbishops, whether the House of Lords received them or not ; and by means of the Church's inferior officers and clergy, the people would all be bound and dragooned into one phalanx. Bishops would then be dictators ; and their ' charges ' would create a political sensation which now they are happily free from. Their hands hold a harp whose chords are the heart-strings of the best people on earth. He is no friend to Liberty or the Monarchy, who would wish the bishops out of the House of Lords. This catastrophe never can occur. Are all parties to be represented, except the Church of England ? it were impossible ! the idea can only be entertained by some " stricken deer *go-weep*" of a Roebuck, and may be sent to twinkle amid the spit-fire coruscations of that electrified *body*, the late " bishop-hater." How then is the Church to *be* represented ? The parochial clergy have no business in the House of Commons. The members for the Universities would not suffice ; the Universities are merely the great Church Schools, and not the Church itself. *Bishops* alone, in an episcopal Church, *can* represent that Church. If *all* have partisans in power, if *all* are represented ; the Church, through her spiritually-hereditary peerage, must be so too.

Hence the admission of *Jewish* Representatives forms the last rivet of the Bishops into the House of Lords. Nor, without an English patent of nobility, can the Jewish Barons become peers, any more than the Irish, Scotch, or German Barons, or Viscount Condeixa.

We have then only to confess, that a new theory of Church and State has come off the anvil of Time. The Church is as much wedded to the State as ever ; but she is so, not because she has the only right, but because she is too mighty to be defied, and too useful to be neglected. The case is not quite so bad as that of a Sultana reigning over a whole harem of wives : the spotless high origin of the Church of England, as the State's " wife of its youth," (Mal. ii, 14,) ought to assign her a truer rank. She certainly has not the isolated grandeur which she had when not many a one of her Clergy could preach a good Sermon of his own, and when all the *well-meant* Test Acts and Corporation Acts and Penal Acts were in full operation ; but altho' at present she has modestly stepped down amid the people, she is not the less queenly still, now that she is full of worth and work, lengthening her cords and strengthening her stakes, and " condescending to men of low degree." It is true that she has had *some* of her "carved work" broken down with "axes and hammers." But it is mere trifling to say that the admission of Jews and Papists and others, makes the Church of England be not established. She may not, just now, stand quite so high and haughty as of yore ; but it is only as when a popular

favorite *bows*, and the people cheer him. She is, as she ever was since the Apostle Paul planted her, and as we trust she shall be to the end, **THE CHURCH OF ENGLAND**. Her ramifications are interwoven throughout the country in every direction, spreading the tissue of the Church into every department of the State; and just as we cannot leave out the small body of Jews, so ten million fold more the country cannot leave us out: for we (the Church) are for the most part the country itself. There are so many acts, great and small, which belong essentially to the Church, from the baptism of a pauper up to the Coronation of the Monarch; that she leaves no vacuum in society for others to rush in and fill,—and leave her out who can! Strong however as our Church is; the approaches towards giving full liberty to **ISRAEL** have been so long and so artfully laid in men's minds, that the present result is unavoidable. Mr. Pitt's scheme of Maynooth was the first insertion of the wedge: Israel's freedom from all disabilities is the full expansion of the fissure; and while we deplore Maynooth, we can consistently gratulate the Jews. We simply hold, that good comes out of evil; and to say this, is not to call the "evil" good. Thus, we do abominate monkery; and yet we rejoice that the monks multiplied the manuscripts of Scripture, as muniments for Truth and the Bible Society. In a word, the Church in her altered attitude, may ejaculate concerning the democratic state of parties, in the words of **Isaiah, xxii, 8**, "And He discovered the

covering of Judah ; and ye have seen also *the breaches* of the city of David, that they are *many* : and ye gathered together the waters of *the lower* pool : and ye have numbered the houses of Jerusalem, and the houses have ye broken down *to fortify* the wall : ye made also a ditch *between* the two walls for the water of *the old pool* : but ye have not looked unto the Maker thereof, neither had respect unto Him that fashioned it long ago."

III. ADVANTAGES OF THE MEASURE.

THE restoration of the Jews to their own land, is a most *desirable* event ; and it is sure to be furthered by their political emancipation. Still, to the minds of many who feel the best affected towards Israel, it has often appeared a great difficulty in the way of granting the Jews any share of political power ; that thereby God's ancient people would seem likely to become *fixed* in Gentile nations, contrary to the assertions of Holy Scripture. But a result the very reverse seems certain. We may ask, are not these *Jews* amongst us already ? and if they *do* now gain power, should we not learn thence, that the God who allows it, knows, that neither the possession of power nor anything else can alienate the hearts of Israel from Palestine. We do not now move the Jews ; they move themselves : aye, they move us. It is useless

then to object, that we ought to wait for the times of the Gentiles being fulfilled; how know we but *those times may be the present*? It is weak to say, that we ought not now to cross GOD's purposes; *how could we* disarrange GOD's decrees? is not He *Almighty* to carry out "the immutability of His counsel?" Still, may we not *now* be His instruments? It *would* be wild and vain for us to begin and try to precipitate GOD's purposes towards the Jews. Here was the stupendous folly of "the Crusades," which were a dabbling in Providence. When Julian the Apostate tried to rebuild the Temple of Jerusalem, he did it avowedly in opposition to the New Testament; it was his own officious wicked act, which there was no sort of necessity for his undertaking. So also when Napoleon favored the Jews, as a mock Messiah, and convened a synod of them, it was for selfish unrighteous ends, built upon hopes of self-aggrandizement; he also volunteered the matter, and might have let it all alone. Both attempts were *man's* interfering; and therefore they failed. This is a very different thing from the whole circumstances of the times in England having resolved themselves into a syllogism to conclude that of necessity the Jews must come into power. What symptom is there of their being denationalized? When English Jews get seats in the English Parliament, they are not thus fixed as a body in this country any more than they were before;—no more than a seat need keep the Irish Members always in London, who only strain for "Repeal" or

some other family project of their own. Will not the Jews use any power they may get, to help them towards the highest object of their ambition? For—tho' some have spoken otherwise,—no Jew *can* ever quite forego the hope to regain the Holy Land. Jewish *converts* are *Jews* still; they never lose that honorable distinction. The Clergymen who are Jews, as Dr. Wolff, the able Mr. Margoliouth, and others; still wear their Jewish extraction as a star upon their breasts. I well remember the respect and interest which were naturally excited in my mind, when the late Dr. Alexander, the first Bishop of Jerusalem, referred to himself, while preaching, and impressively said, “for I also am of the seed of Abraham!” If *these* cherish this boast, will not the *Jewish Legislators* do so? Will the magic symbols “M. P.” after Baron Rothschild’s name, make him *lose caste*? Is a Jew in power no longer a Jew? No such result attended the elevation of Joseph in Egypt, or Daniel in Babylon! How does it happen that Sir Moses Montefiore, the honored of our Sovereign, is looked up to, by the Jews all over the world, as a Jew *par excellence*? A Jew always preserves as determinate an outline as his Judea! In fact, some harsh minds even contend, that no Jew can be a good citizen, because his heart is abroad, and he must always be an alien! Every Sabbath, the Jews, in their public worship, pray for their restoration to their beloved land. And who is there of any feeling, who ever heard of the Jews mourning at Jerusalem, but must have their wailings

as if still ringing in his ears? For with striking accuracy CHRIST's prophecy was, that the Temple of Jerusalem should be laid "*even with the ground,*" (Luke xix, 44), and have not one stone left upon another, only so far, and not below the surface; the foundations were to remain. It was also foretold by Micah that Jerusalem should become "*heaps;*" and so it is, literally *heaps*, the whole groundwork being one mass of fragments of ruins, in some places 40 feet deep. But these heaps have at one spot been removed, and part of the *foundations* of the Temple, which CHRIST significantly spared, have been disclosed, constructed of huge blocks, of which we may say with the disciples at Mark xiii, 1, "see what manner of stones and what buildings are here!" Thither the Jews go, and wail, and lament, with the most uncontrollable sorrow; reminded as they are, by this massive wall, of all their Temple, and their ancient glory. This piteous scene is surely enough to prove to anyone, that the ligatures which bind the hearts of Israel to their own land, cannot be easily severed, either by prosperity or adversity. In adversity, they cling to the thought of Palestine with all their proverbial tenacity; and they will use prosperity, to advance that restoration, which is much to be desired both for them and for all people.

It is well that the case of the Jews should be more observed and studied; because they are in one important particular, a most pointed *witness* for a leading Christian truth. We need not refuse to glean an

attestation even from unconverted Jews ; and if the hieroglyphics of the Egyptian reptile-worshippers give the most direct corroboration to the history of Joseph and the Book of Exodus, much more may we thankfully accept the testimony which is unconsciously given us by the people of the Old Testament. They look for the same Messiah as to come, Who we know has come already. The nature of the person and offices of this Messiah, having been known to the ancient Jews, may well be not quite obliterated among modern Jews. The Messiah is an *atoning* Saviour. The Jews still confess this, circuitously, (as we may find in Onkelos) making *two* Messiahs ; one, the son of Ephraim, to suffer, and the other, the son of David, to reign in glory. But, ah, Zechariah tells them, there is only "one LORD, and His Name one"! The Messiah is God and Man, in one. This is stated by Isaiah, who declares that the "Child" who should be "born," is the "Mighty God," which words, *el gibbor*, mean, *God the Mighty-Man*, that is, "Perfect God and Perfect Man." In this manhood the Messiah suffers all the sorrows recounted in the 53rd chapter of Isaiah ; (this very interpretation of that chapter is insisted on by the Targum, the ancient Tanchuma, Siphre, and Pesikta.) He bears the stripes due to us sinners, and thus He clears us from the consequences of our own guilt. This is His great atoning Sacrifice. This is the essence of the Gospel, the sum and substance of all the Apostolic teaching. The Jew does not hold CHRIST ; but he holds *that* which shall prove a

pioneer, namely, the vivid sense of *Sacrifice*. This is that which hundreds of thousands of "the Baptized" have lost sight of. Their's is like the early state of mind of the Rev. Charles Simeon, who says, "as I was reading Bishop Wilson 'On the LORD's Supper,' I met with an expression to this effect—'That the Jews knew what they did when they transferred their sin to the head of their offering.' *The thought rushed into my mind—What! may I transfer all my guilt to another?* Has God provided an offering for me, that I may lay my sins on His head? Then, God willing, I will not bear them on my own soul one moment longer. Accordingly, I sought to lay my sins on the sacred head of JESUS." To this good and eminent man, Mr. Simeon, the subject of CHRIST's Sacrifice was once quite new and strange; so also is it now utterly foreign to the thoughts of a large body of supposed Christians. They neither know nor feel anything about an Atonement; they comprehend not even the style and manner of it. The idea of the *punishment* of our sins being borne by another for us, to pardon us: never enters their minds. They have no predisposition to receive this one grand truth. Their sad obtuseness is often owing to a defect in a certain branch of their Education, namely, as to Education in the *Old Testament*. They are not familiarized to that inestimable record. (Even some Protestant Dissenters are too much given to making light of the Old Testament, because they feel it is too *high church* for them.) Many pass it over altogether. Numbers of these are

worse than **their** predecessors the heathen ; for even *they* knew what a sacrifice meant. But—to take one party—the nothingarians never even dream of their guilt being borne for them by a vicarious victim. Another party are the Romanists, and their transubstantiation fiction has elaborately substituted the mystery of the priestly celebration, instead of the real scriptural doctrine of sacrifice ; they “crucify *unto themselves* the SON of GOD afresh.” Puseyism is the half-way-house to Rome, a sort of place of “departed spirits”—*quisque suos patimur manes!* the motto for which may be the woeful sentiment of Froude’s Remains, “*Really* I hate the Reformation and Reformers, more and more.” But the Jews are a witness to all, of the need of a sacrifice. The most solemn Jewish season is the “Day of Atonement,” wherein the sense of a sacrifice is thoroughly preserved ; and even their ingenious practical quibble of then immolating *gever*, a cock, because *gever* also means a MAN, is full of import : it tells that man alone can die for man—and they have only to add, that if His Blood is to satisfy, He must also be Divine—for thus CHRIST on the Cross both bears and cancels sin, and confers absolution and peace. The Jew can fully appreciate and trace the outline of this sublime Doctrine ; if the “Christian” cannot. Even an unconverted Jew may in this respect read a salutary lesson to many a mere professing “Christian,” who altho’ he may call himself a Churchman is no better than a Swedenborgian or Deist, being destitute of any reli-

ance on CHRIST'S Atonement. It is advantageous for all, that Israel should be thus brought forward.

The Jews are a most eloquent *warning*, to be before us ; and so decisive, that they must emerge out of comparative obscurity into still more strong relief. They are the reflection of the sword of vengeance which now must glitter in all men's eyes. Even in their hitherto more private capacity, amid oppression and degradation ; they have subserved a most important benefit to souls. If they have been a stumbling-block in the way of the Gospel ; they have also been an outwork, to support Religion. They have adhered to JEHOVAH. And many a man has been preserved, and kept from lapsing into the hideous gulf of total Infidelity, by *the Jews*. Many a soul has been forced to grapple with the gigantic demonstration which Israel supplies, and to be convinced by it ; when other documents of Bible truth have been altogether unheeded. Unless a man wantonly and doggedly averts his glance from the Jews ; we may assert, that his mind must either be more or less imperfect and idiotic, or else absolutely ' possessed by the Devil ;' if he can overlook the " outward and visible sign" which the Jews exhibit of the dealing of that God of Scripture Who declares, " 'This people have I formed for Myself, they shall show forth My praise.'" In these days of apostacy, when "many run *too and fro*, and knowledge is increased ;" it is requisite that men should, to the last, be left " WITHOUT EXCUSE." I may mention a case in which *this* was most pointedly

exemplified, when a person of strong religious principles was arguing with an inveterate infidel; the latter said scoffingly, ‘ Well, show me a Miracle, and I will give up.’ At the time, a poor Jew happened to pass at the other side of the street from them; whereupon the Christian champion exclaimed, “ There, see a Miracle!” and he rapidly recited the chief features of Israel’s position. The infidel was much agitated; and, altho’ his conscience had long been too much “ seared with a hot iron ” to be then won over, he was completely confounded, and could only falter out, *I will hear thee again of this matter!* There is this use in men’s being forced to look at Israel; it thunders to the world, “ Therefore, thou art *inexcusable!* ” And thus perhaps it may be no harm for some of our rulers to have the exiles of Palestine before their eyes. And if in the Epistle to the Romans, the Church of Rome, as being by no means ‘ infallible,’ is pointedly told, “ otherwise *thou* also shalt be cut off”; we also in the Church of England perhaps may learn to “ not be high-minded, but fear,” and to know that except we repent, we shall all likewise perish. “ For if God spared not the natural branches, take heed lest He also spare not thee.” There are no such awful ruins as Israel! So that one of “ the ancient people ” (Is. xlv, 7,) cannot stand up in the British House of Commons, without as if having lettered on his forehead the warning words, “ Behold therefore the goodness and severity of God: on them which fell, severity: but toward thee, goodness, if thou continue in

His goodness : otherwise thou also shalt be cut off"! And it is thence an impressive consideration, to reflect, Where are all the other ancient nations? All gone! And, while England almost "*mole ruit suâ*," the people of the Bible are rising in their strength. Where are the old Romans? dwindled into a three million diocese! Where are the Persians, Assyrians, Babylonians? *Where are the gods of Hamath and of Arpad?*

When attention is drawn to the *Scriptures*, good must follow. And an examination of the statements of the Bible, must necessarily be the sequel of the present movement. The Nation is thus told, "Search the Scriptures: for in them ye think ye have eternal life: and they are they which testify of Me." Men now *must* see the fulfilments of prophecy. How literally verified is Isaiah's description of the Jews as preeminently having "their silver and their gold"; and Zechariah, xiv, 14, says, "And Judah also shall fight at Jerusalem; and the *wealth* of all the heathen [Gentiles, *goyim*] round about shall be gathered together [namely, in Judah], gold, and silver, and apparel, in great abundance." So, just as "ten" European nations (Rev. xvii, 16,) are to hate the Great Apostacy; it also is written, Zech. viii, 23, "In those days it shall come to pass, that *ten* men shall take hold, *out of all* languages of the nations, even shall take hold of the skirt of him that is a Jew, saying, We will go with you; for we have heard that God is with you." Thus shall Moses' words be realized,—When all these things are come upon thee, the blessing and

the curse, and thou shalt call them to mind among all the nations whither thou art driven, and shalt return unto the LORD, then He will turn thy captivity, and gather thee, and bring thee into the land which thy fathers possessed, and thou shalt possess it! Thus also shall Solomon's sublime prayer to the same effect, be granted. For the covenant of day and night (Jer. xxxiii, 20,) can sooner be broken, than can God fail to cause Israel's spiritual "captivity to return." And so all Israel shall be saved! When men see these things transacting, they must be made to look more than ever to the BIBLE; perhaps we shall see it unrolled in high places, and more often appealed to by our rulers openly: perhaps the Gospel of CHRIST may no longer be a shelved subject in our "Christian" Parliament: perhaps the argument of sundry hypocrites—that the Bible is 'too sacred' to be referred to in Debate, may be set at nought by those who love the Bible: we may now be driven to the sole use of our best weapon, "the Sword of the SPIRIT, which is the Word of God"; till in the midst of these atheistic days we shall find a new force in God's being called *the God of Israel*.

The concession made to the Jews, by admitting them as Legislators, has a hopeful aspect, inasmuch as it *follows* our witness to that people. If, as is true, more Jews than ever before are converted amid tolerant treatment; may we not rejoice that God makes an unchristian state of politics help us, and strike off some shackles from Israel's mind? This seems like a

sunbeam of Providence gracing the foregoing efforts to convert the Jews. It is not that the Nation deals a political stroke first, and then the Church tries to follow with the Gospel; but, the Church has already taken the initiative, giving priority to spiritual things, and seeking first the kingdom of God and His righteousness. If we extended civil privileges to the Jew, and did not hold up to him the true olive branch of reconciliation with God through CHRIST; we might well despair. But, we have a Protestant Episcopal Church on Mount Zion itself; the Ottoman firman authorizing it, was signed on the ominous date of the beginning of the year 1261 of the Hegira. The Jerusalem bishopric is prospering as a Mission, beyond men's hopes *and fears*; "who hath despised the day of small things?" Two prelates have been sent successively; the present Bishop (Gobat) seems everyway qualified to wield the pastoral staff of St. James: and Prussia and England show how Kings can be Israel's nursing-fathers, and Queens their nursing-mothers. The Society for Promoting the Conversion of the Jews is supported by some of the great and good of our land; and the Primate of all England is the PATRON of the Society. So, in short, if in our heterogeneous Parliament we have Legislators who are un-converted Jews, we trust that this is in order that they may better mark our Gospel pharos, to guide them into the "haven where they would be;" while all the time we hope that neither is our own candlestick to be removed, nor is another to take our crown,

inasmuch as GOD has made us already give a witness for CHRIST to the Jews, and on Zion itself there is deliverance.

The great elevation, comparatively, which the Jews *themselves* everywhere exhibit; must invite us to assist them. Israel's own uprising encourages us to rouse ourselves for them. If their minds were in as great subjugation as ever, we could have no hopes; and it might seem like gratuitous mischief to give place to them in the least. But the Jews are becoming very generally enlightened about their own creed; and as no *Rabbi* has a right to usurp the offices of the *Cohen* or priest, it is well that the authority of Rabbis is diminishing. The very foundations of the creed of modern Judaism are shaking; and no wonder! when for instance the Talmud enunciates Astrology, (Moed Katon, 28. 1,) and lays down that "Life, children, and a livelihood depend not on merit, but on the influence of the stars." See Dr. M'Caul's invaluable work, the "Old Paths," no. 23. And, because Isaiah's words "my house of prayer," strictly are the house of *my* prayer; the Talmud gravely advances the outrageous and monstrous notion that this mere matter of idiom proves, that God prays, namely, to Himself! and the Talmud even pretends to give the words of the prayer!! Hence we may readily believe the "Jewish Inquirer" for Oct. 1838, when we are told "it is a fact, now no longer to be denied or concealed, that in all the civilized countries of Europe, the Jews are ashamed of the Talmud;"

and again, p. 41, “ Never since the dispersion of the Jewish people was there a period in their history so remarkable, or fraught with such importance as the present. The Talmudic captivity is beginning to draw to a close. Jews in various parts of the world have broken the fetters of ignorance and superstition ; and even in England, where apathy has so long reigned, a portion of God’s ancient people have been aroused from their long and fatal slumber.” In this manner are the sons of Israel *going forward* through the “ Red Sea” of SOCIETY ; unhurt by any Wall of Water, which, however frowning, can cast nothing worse upon them than its mural shade : for “ the depths were congealed in the heart of the sea.” We are far from making a Saviour of Israel : we regard these events as merely the workings of the LORD, and the signs of His blessed Coming : still we look to see the fickle papal Pharaoh overwhelmed behind God’s ancient people : and as soon as they reach the promised shore, we shall hear them with new and holy transport chanting (and shall *we* not join ?) “ the Song of Moses the servant of God, and the Song of the Lamb !” Hence it is so strikingly said in Ps. lxvi, 6, “ He turned the sea into dry land : they went through the flood on foot : *there did we rejoice in Him !*” and at Is. xi, 11, the occasion of the LORD’s setting “ His hand again *the second time* to recover” Israel, is made to be the same as to “ utterly destroy the tongue of the Egyptian sea—and make men go over dry-shod—*like as it was* to Israel in the day that he came

up out of the land of Egypt". At the first Exodus there went out with Israel a "mixed multitude," amid which were Cadmus and Orpheus and others famed in Greece and in the isles of the West; is there to be no "mixed multitude" with Israel now? The Jews are now most marvellously passing in a straight marked course through the midst of us all; they are carrying the banner of JEHOVAH, and they are beginning to inscribe ANOTHER NAME which belongs to them, for soon upon Israel's oriflamme shall be traced the letters of JEHOVAH-JESUS.

Moreover, a necessity is laid upon us, in some degree to take Israel's part; because of the 'many *friends*' whom the Jews find at once all around them. It is well that Christians, so torpid as most of us are, should thus be roused into zeal for Israel, in the right direction. The Tractarian anti-state-church men, and the republican anti-state-church men; all unitedly clamor away in favor of the Jew. They want to make a tool of him; let the Church then, without selfishness, look at the Jew for his own good. Can Protestants hang back, when all the self-interested political destructives are on the alert? Even the great radical chief, the arch-brigand, the Pope, adopts the same course. He who usurps Israel's metropolitan chair, now makes a show of taking them by the hand. What then, I ask, was the cause of the fierce ill-will against the Jews, which was so common in our land, and which still exists among some inveterate ones? What did this intuitive abhorrence of Israel

arise from? It sprang from the erroneous use of crucifixes and all the thoroughly carnal gazingstock apparatus of nails, spear, thorns, and other ocular representations of our Divine Redeemer's *tortures*, as if inflicted by the hands of Jews. Hence the dislike of Jews was a kind of mantle of Popery, still falling on us; a sort of curfew or candlemas tradition, which lingered without sanction, and which kept alive in men's minds some of the same hideous ferocity against Israel that might paint a blush on the face of the Rev. Dr. Richards, or any other representative of the Dark Ages. But it is not strictly the Church of *England* that ever oppressed the Jew; it was England's Romish incubus which did so. If now the Pope opens the frightful Ghetto, all the world wonders! as much as to say, How strange for Rome to do so! how different is Rome now acting from before! Yes, we see *that* Power, which in spite of every mutation and 'development' calls itself "unchangeable;" rising fresh from its Missal 'Reproaches,' or the late Decree of the Inquisition of Ancona: or from such an act as when, four times every year, in the church of St. Angelo Pescheria at Rome, 300 Jews and 50 Jewesses were compelled to attend the services which they loathed: and now the old red Dame, notwithstanding her 'semper eadem,' says with a sigh, 'The times are changed, and we are changed with them'—tho' Rome's native ejaculation would rather be, What have we to do with thee, O ancient Israel of God? art thou come to destroy us *before the time*? Now

Rome has bethought itself of the existence of such a *royal nation* as the Jews. Hence we see that at the very present moment, after a lapse of five centuries, the Pope is with a prodigal expenditure out of his own purse, resuming the appointment of a resident Latin Patriarch at Jerusalem. This fact is no more than we might have been prepared for, by the luminous prophecy in the eleventh chapter of Daniel, which points out that the same Power, which is regal, and yet has the CELIBACY of a monk, and employs the worship of Mauzzim or Saints, and (as the Apostle explains) “sitteth in *the temple* of God, showing himself that he is God;” shall at last, being troubled at the good understanding which is more and more prevailing between the Greek Church and the English Church, “go forth with great fury to destroy, and utterly to make away many. *And he shall plant the tabernacles of his palaces* [the gorgeous splendors of the Church of Rome, on the Jewish isthmus] between the [Indian and Atlantic-with-Mediterranean] seas, in [that which has already become again] THE GLORIOUS HOLY MOUNTAIN; yet he shall come to his end, and none shall help him.” Thus also, with equal clearness, in the 14th of Isaiah, we learn that “in the day” when the LORD will “yet choose Israel, and set them in their own land, and the strangers shall be joined with them;” the false regal wielder of ‘the keys’ of Purgatory shall be taunted by the lost, as having fallen into the abyss himself, after that his last resource had been the adoption of a kind of Exarchate

of Jerusalem ; for, the Church of Rome, as personated by the Pope, is told, “ thou hast said in thine heart, I will ascend into heaven, I will exalt my throne above the stars of God, *I will sit also upon THE MOUNT of the congregation.*” So, Rome’s last struggle is on Zion. Wherefore true Christians cannot stand aloof. The rectitude of their coming forward is written for believers in many a text of doctrine ; and such a word as “ beginning at Jerusalem” is prophecy enough for us to be *seen* acting upon. Thus in our Prayer for all Conditions of Men, we define “ the Catholic Church ” as “ all who profess and call themselves Christians ;” and, *besides* them, we pray for “ all sorts” of characters and persons, “ that Thou wouldest be pleased to make Thy ways known unto *them*, Thy saving health unto *all* nations.” This includes the Jews. And the Church of England, with singular good taste and Christian propriety, prays foremost for the “ Jews” in the Collect on *Good Friday*—that day when Jews crucified our Saviour!! There is a beauty in this prayer, with which many enlightened Israelites have confessed that they have been much struck. This prayer has been, and will prove, a blessing to the Church of England. How happy an excuse for a (slight) revision of the Liturgy, would it be, that the prayer could no longer be used, the “ Jews” having in a body embraced Christianity ! We pray at our most solemn season for them, that God would restore them, and *fetch them home* ! And even if our Church meets contumely, amid the Maelstrom of Parties, if she

is thrust back from her sole right, if others get their cloven feet upon her skirt, and if at last ‘even the Jews’ get into her heritage; yet, with heavenly love the Church still uplifts her beauteous orison—“*Fetch them home*, blessed LORD, to ‘Thy flock, that they may be saved among the remnant of the true Israelites, and be made one fold under one Shepherd, JESUS CHRIST our LORD, Who liveth and reigneth with ‘Thee and the HOLY SPIRIT, one GOD, world without end. Amen.”

The recompense of *blessings* which attend him who sincerely befriends Israel, should spur us forward. “They shall prosper that love thee!” The LORD will bless the house of every Obededom who shelters His people. This is inscrutable, that they should be cared for thus, when they are not Christians: still it is true: and it is in unison with their glorious prospects: while also it may be partly explained in the spirit of the verse—“I wot that through ignorance ye did it, as did also your rulers:”—in which spirit the Church in the Apostles’ Creed says not that CHRIST suffered through the envy and malice of the Jews, but “suffered under Pontius Pilate”—merely to mark the era. With similar mercy towards Israel, at Rev. xi. 8, CHRIST’S Crucifixion (which also was a Gentile mode of execution) is laid at the door, not of Israel, but of Rome; for, tho’ this does not exonerate the Jews, the words are, “the great city [ROME], which spiritually is called Sodom and Egypt, *where also our Lord was crucified*,” that is, CHRIST was crucified under the actual jurisdiction of *Rome*, not of

the Jews, who, tho' guilty of CHRIST's Blood, had, as an absolute historical fact, no temporal King but Cesar, at that time. Thus one of the 42 Articles of Edward VI. was not only levelled against the views of the Millennarians, but also went out of its way to brand the same as "*Judaica deliramenta*:" this description may have been quite correct: still we rejoice that now this article forms no part of the 39 Articles, having been withdrawn by our Church, so as both to leave the mysterious subject itself an open question, and also to show that from the year 1562, our Reformed Church has deliberately suppressed *that passing sneer at Israel*. Our Church exhibits no tinge of illwill against Israel. The Jews' Society was established in the year 1809; and, how has England risen, simultaneously! it is significantly the date of George the Third's Jubilee, and of Talavera, and of the dawn of the superb career of Wellington. There have been but few kingdoms that *have* displayed kindness towards the Jews; still I may point to the history of the Polish Jews, "*Les Israelites de Pologne*," written by M. Leon Hollendaerski, which shows that in the year 1176, when the Jews were attacked, Prince Mieczyslas protected them, and punished their oppressors; and there are letters patent which prove that in the year 1203, the Jews were in the possession of land. Prince Boleslas in 1264 still more improved their position; and Casimir *the Great* conferred on them very many advantages, which were savagely reversed after his death. However, under Casimir, the

Jews' friend, Poland *prospered* more than ever it did before, or has done since: (v. J. Intell. Oct. 1846,) "the consequence was, that the Jews, decimated in Germany, and persecuted throughout Europe, came to seek an asylum on the banks of the Vistula. They founded there colonies and towns, established workshops, and enriched themselves in *enriching the country*. Commerce was left exclusively in their hands, they erected factories, and carried on all kinds of trades. It was about this period that those immense granaries were established by them, which were called after their royal benefactor Kasimirz, and the ruins of which are still to be seen between Cracow and Lublin. At Cracow the monster building Sukiennica, so called because cloth was manufactured there for the whole kingdom, astonishes travellers by its magnificence, and testifies of the favor shown to the Jews by that great king". Moreover, I appeal to the grand principle found throughout the entire of Sacred History, showing that the Jews have uniformly conferred inestimable benefits on other people. When all the rest of the world was pagan, the Jewish Church possessed the lamp of truth, which must have mitigated some of the dark horrors of Heathenism; just as our Reformation shamed Popery out of *some* such things as "The Ceremony of the Ass." Abraham was the cause of weal or woe to kings, according as he was well or evil entreated by them. Behold Joseph in Egypt, a type of CHRIST, and therefore a Saviour, not only of that land, but also of surround-

ing nations, who were saved from the Famine by Egypt's Hebrew Regent, who "taught their *Senators* wisdom." Even the good Jewish "captive little maid," directed Naaman the Syrian to the prophet of the Living God, bringing incalculable blessings to Naaman and his house. See Daniel, *even in the Captivity*, causing nations tongues and people to know the True God. We might dilate on the blessings administered by Mordecai and Esther; or the Three Children, whose constancy to JEHOVAH gilded a whole empire with a witness brighter than the lambent flame of their burning fiery furnace. But the time would fail me should I attempt to describe how all the families of the earth have been blessed by the children of the Faithful Abraham. May they, who have brought us the Old Testament, be restored to all God's mercies through the New Testament which we now bring back to them! May they again be crowned with glory! Josephus tells us that in Greece the warlike Spartans once were proud to boast of their own descent from Abraham; Homer also calls the Jews, *Solumoisi kudalimoisi*, that is, the glorious sons of Salem! May they soon be illustrious more than ever! May Jerusalem once more have a right to the name which Herodotus gives it, "Kadytis," *The Holy City*! May CHRIST's watchmen upon the walls gain a blessing for themselves, while they give Him no rest (Is. lxii, 7), till He establish, and till He make Jerusalem a praise in the earth!

Moreover, the *retributive* judgments which are sure

to descend upon the oppressors of the Jews; should bid us **BEWARE!** If those who befriend Israel are blessed, those who injure Israel shall suffer fearfully for their malevolence, being recompensed as Egypt was of old; thus at Acts vii, 7, God declares, "and the nation to whom they shall be in bondage, will I judge, saith God." The question is, which is it the more 'unchristianizing,' for us to act like the Kenites, who "showed *kindness* to all the children of Israel when they came up out of Egypt," whereby the Kenites themselves were afterwards exempted from destruction; or, for us to earn for ourselves the curse of Amalek, (1 Sam. xv, 2), by acting inhospitably towards the Jews in their transition state, refusing them a *passage through our territory*? Such **UNKINDNESS** was resented by **JEHOVAH** then, tho' Israel had not attained to the land of Promise; let us give heed to the spiritual parallel! for, tho' they have not yet all come to **CHRIST**, let us at our peril dare to treat them *unkindly*. I regret that 'Oxford' is even more relentless than Cambridge (page 33); the votes being 52, to 11. However, the minority is important, as an index of the views of many an absent voter. And Professor Powell spoke (in Latin) at the time; some of his views indeed were of the sectarian Mr. Miall's levelling kind, such as, if carried out, would let the Lord Chancellor, the "Keeper of the Queen's Conscience," be a Jew: for Mr. Powell strained the argument too much: still, he justly remarked, 'If it be said, they are not Christians: does that prevent their being

brethren? Should we not recommend Christianity to them? instead of giving them offence, we should display towards them the true spirit of the Gospel; so that if they can neither assent to the Christian faith nor apprehend its hope, they may at least be conscious of being comprehended within its wide embrace of love.' Mr. Powell omits the great point, the present diversity of parties. Still he manifests a generosity of heart; and let us hope that a majority of the Clergy would differ from the petty majority of the Oxford sages who negatived his views. I lay no stress on the recently-published *Anglican* pamphlet (anonymous) entitled "A Clergyman's Apology for favoring the removal of Jewish disabilities:" it treats us to more of Aristotle than of Scripture, and *wishes* our Church *were not* Established,—in short it is far from cogent, nor does it even seem sincere. Still I trust we may have many a "Clergyman" *favoring* the Jews. It would be painful to think that the mass of the Church (laity and clergy) were hostile to the interests of Israel. It would be a tremendous position to be in. I trust no such thing is the case. For the time is coming that "the envy also of Ephraim shall depart, and the *adversaries of Judah shall be cut off*: Ephraim shall not envy Judah, and Judah shall not vex Ephraim:" as regards ourselves, this shows that while Church and Dissent do co-exist, each should mildly hold its own region, and thus not *vex* the other. While also, *Israel itself* shall dwell safely! Shall we then "envy Judah," or murmur at the liberation of

those whom Satan hath bound these many years? No: if the Jews have been CHRIST's great enemies, why should not *we* feel great joy to win them over? What more heartless than not to care? What more exciting than Israel's return to Grace? Their hostility may be as transitory as (in a former parish, in 1843) I once felt it to be, when, in calling on an invalid parishioner, I found three Jews, who were lodgers, in the room; while I spoke to the sick person about CHRIST's way of Redemption, they listened attentively, until I cited Isaiah's immortal accents—"and the LORD hath laid on *Him* the iniquity of us all!" The brilliant words, so familiar to their Bible-stored memories, gave them as if a galvanic shock, and they started up, with a murmur of displeasure, and abruptly left the room. *But, in two minutes* they returned; and when I accosted them, they soon became pacified, and willing to hear of CHRIST. Thus momentary can be Israel's aversion! (Some persons allege that Jewish "converts" are insincere and unstable, and that they soon relapse back to Judaism; this wanton insinuation however is best refuted by the fact, which we always find, that these cruel objectors themselves have paid no attention to the Jewish cause, nor are they able to specify instances of the apostatizing whereof they speak.) At that time, I had—tho' nowise connected with the London Society—nearly 50 visits from Jewish young men, who were generally not in want; and their eagerness and anxiety about '*Christ*' showed that the arrow of Truth

was in their hearts. I once also had the opportunity of calling several times on an aged Rabbi: at last, one day, he received me in a very angry manner, telling me that his wife had overheard what I had said to him about CHRIST, and was convinced of the truth of the Gospel; and so I was (he said) like *the Serpent* in Eden. I was too glad to hear of the success of the Truth, to be offended; and having unburthened himself of his choler, he was soon so mollified, that he showed me his little Sanctum or ark, the curtains of which he drew, and displayed a beautiful vellum Roll of the Law. May hostility, in every Jew, be as transient as it was in this Rabbi! Yes, and we can trust, that our bread thrown upon the waters shall return even *after many days*. Thus I may state the case of a Polish Jew: when a mere child, he had given him, by some unknown hand, a tract, with JESUS THE MESSIAH at the top in large Hebrew letters: he was reading it, when his father came in, saw it, snatched it furiously from him, and beat him: the child said he thought there was no harm, as it had Hebrew letters; whereon the father beat him most severely. But this cruelty could not obliterate "the Name which is above every name:" *Jesus the Messiah* was remembered always, and the child wondered who He was: when a man, this Jew fought against the Czar, and had to flee, and after eleven years' residence in England, being then 43 years of age, he was brought to CHRIST by the sense of his absolute *need* of a sufficient Sacrifice, and by

the overpowering conviction that in our MESSIAH alone could he find this atonement for his sins; and I was privileged to baptize him before a large congregation; since which time he has been steadfast as a Christian worshipper and communicant. When there is so much of this kind to do, and doing, how inhuman would it be to reject the Jews and protract their centuries of sorrow! Rather, *cast up, cast up* a high-road for them! Let *us* not still strive to draw down upon Israel's face that vail of judicial blindness which GOD's own arm is now withdrawing. He that toucheth them thus, only toucheth the apple of his own eye. The words of Zechariah, i. 14, are as summary as they are awful: "Cry thou, Thus saith the LORD of hosts, I am jealous for Jerusalem, and for Zion with a great jealousy. And I am *very sore displeased* with the heathen [goyim] that are at ease; for I was *but a little* displeased, and THEY HELPED FORWARD the affliction. Therefore thus saith the LORD, I am returned to Jerusalem with mercies." GOD does still regard them, as surely as they are not merged among other nations. They are lying ready for His hand, as soon as He thinks fit no longer to *scatter the power of the holy people*. They have been prepared for this, inasmuch as they 'bear the precious seed' of divine 'Truth, clogged tho' it has been with Tradition. Like the germ in the hand of a mummy, which has lain dormant for 3000 years, and sprouts at last; Israel has had the seed of the word of GOD, which shall not return unto Him void,

for it *shall prosper!* Just as the dogma of the “False Prophet” Mahomet, “There is no God but God, and Mahomet is His prophet,” is half true, and half false; so also Israel has held truth with error, but now the error is crumbling, and the Truth remains. The 12th article of the Jewish ‘Creed’ compiled by the illustrious Maimonides at the end of the eleventh century, is, “I believe with a perfect faith that the Messiah is yet to come; and tho’ He retard His coming, yet I will wait for Him until He comes;” this contains belief in the Messiah, which is right: the expectation of His coming, coupled with the denial of His having come, is wrong: but this latter is becoming less and less the persuasion of Israel. Hence they are returning to the favor of JEHOVAH. And therefore He makes there be among the nations a growing kindness towards His ancient people. Let England then not refuse to do a kind political act towards Israel, which also is only in keeping with her own previous policy. Now God is blotting out as a thick cloud their transgressions. Let the Church of England therefore remember not to *help forward* God’s wrath. Whenever I meet a man who is full of bitterness against the Jews, tho’ he can give no good reason for his spite; I always think of the divine description of him, that he is wantonly *helping forward* the affliction! and I shudder to think that God says He is sore displeased at such an one! so that he who clings to Israel’s departing dishonor, shall only find himself consigned thereto for ever. He hated blessing,

so it shall be far from him ! His love for Israel's degradation betrays his own. His is like a fool's race, when the sun emerges from a cloud, and he runs to keep still under the gloom, loving darkness rather than light ! Why should we murmur and fret at the exaltation of CHRIST's brethren after the flesh ? Let us not be less merciful than the GOD who allows it. Why should we imperturbably insist that 'they are to be a byword,' when they are a "byword" no longer ? Similar is the infatuation of those who one moment exclaim that 'no Jew can represent a Christian constituency,' and who the next moment must stigmatize the electoral majority which could choose a Jewish representative, as all composed of 'apostate Christians ;' so rapidly are their 'Christians' reduced to 'apostates !' which sad fact should send us back to first causes, whence we ask, Can we change the dispositions of these apostates—do we not find them such, and leave them such—can we then disfranchise all apostates ? we cannot ! wherefore, we must let them select whatever 'congenial unbeliever' they like : the fault is in their apostacy, not in the Jew : we should not quarrel with the Jew, but with the British infidelity which is in the background : the 'disorders of the country' spring from the many disordered hearts of our countrymen ; so that, if now, *by us*, an honest and estimable Jewish gentleman, simply *because he is* one of GOD's ancient people, is to be abhorred more than our own dishonest 'apostates,' we should only be exposing ourselves to every retri-

bution that folly can brave, or malice can deserve. The proper view of the case is very well and very powerfully put in a small pamphlet which has just appeared (Boone, New Bond-street,) from the pen of Colonel George Gawler, K.H., an earnest and devoted Christian ; he entitles his work, “ The Emancipation of the Jews indispensable for the maintenance of the Protestant Profession of the Empire ; and, in other respects, most entitled to the support of the British Nation.” If men *must make us out* to be more ‘ a Christian country ’ than we are, why may not the introgressive advance of the Jew amongst us, be regarded as a concession on his part, and not on ours ? he consents to administer a polity of which he disapproves ; and his “ drop ” dilutes not our “ many waters,” but we dilute him. The Jews of old admitted inquiring aliens into the Temple’s “ Court of the Gentiles ; ” now *we* have to make a corresponding return. And if Paul, the Christian Jew, was tolerated in “ Cesar’s household,” (Phil. iv. 22,) it may be well for our Christian Cesar to allow the already-naturalized Jew to be in Westminster palace, where the Church prayers are regularly read, whether they will hear, or whether they will forbear, for they are a rebellious House. The Apostle Paul was no time-server, he was no creature of expediency ; and yet (1 Cor. ix. 20) he says “ unto the Jews I became as a Jew, *that I might gain the Jews*—I am made all things to all men, that I might by all means SAVE SOME.”

We hope, therefore, in fine, to see fulfilled the rapturous predictions of that bright inspired lyric, the 126th Psalm, with whose celestial grandeur the sublimest flights of Pindar or Euripides are never to be compared, while the royal bard of Zion bursts forth into the enthusiastic hymn—When the LORD turned again the captivity of Zion, then were we like unto them that dream. Then was our mouth filled with laughter, and our tongue with singing. Then said they among the nations, the LORD hath done great things for them. The LORD hath done great things for us, whereof we are glad. Turn our captivity, O LORD, as the rivers in the south. They that sow in tears shall reap in joy. He that goeth forth and weepeth, bearing precious seed, shall doubtless come again with joy, bringing his sheaves with him.

And soon may regenerated Israel join with the Church of England in repeating after this and every Psalm, the beautiful and time-honored Doxology, “Glory be to the FATHER, and to the SON, and to the HOLY GHOST; as it was in the beginning, is now, and ever shall be, world without end. Amen.”



ERRATA.

Page 12, line 3, transcendent. p. 28, l. 26, light. Thus, in that First Commandment, both at Ex. xx, 3, and Deut. v. 7, the peculiar form panaai means, Thou shalt not have any other gods than the Three Persons of Myself. p. 56, l. 20, millions, not counting the Irish vagrants who 'could burn London.' p. 59, l. 30, vaulting. p. 102, l. 27, run to.

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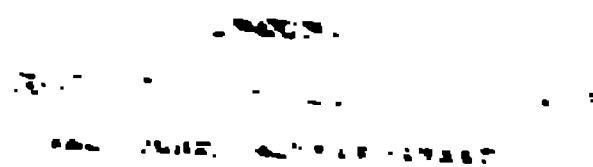
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F I N I S .



SUBSTANCE OF A SPEECH

ON THE

MOTION OF LORD JOHN RUSSELL

FOR A

COMMITTEE OF THE WHOLE HOUSE, WITH A VIEW TO
THE REMOVAL OF THE REMAINING

JEWISH DISABILITIES;

DELIVERED IN THE HOUSE OF COMMONS, ON THURSDAY, DECEMBER 16, 1847.
TOGETHER WITH A PREFACE.

BY

THE RIGHT HON. W. E. GLADSTONE,
M.P. FOR THE UNIVERSITY OF OXFORD.

LONDON:

JOHN MURRAY, ALBEMARLE STREET.

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LONDON:
GEORGE WOODFALL AND SON,
ANGEL COURT, SKINNER STREET.



PREFACE.

THE proposal to open the doors of Parliament to the professors of the Jewish creed, and to make them eligible for political office, is manifestly one of deep religious interest. The University of Oxford, as well as that of Cambridge, has accordingly given expression to its own feeling upon the subject, through a petition to the House of Commons, which was carried in convocation by a very large majority. On such an occasion, she has an especial title to know for what reasons it was that a person whom she has recently and most highly honoured by choosing him to be one of her representatives in Parliament, has been constrained to place himself in opposition to her own formally recorded sentiment.

The following speech, to which reference would naturally be made for those reasons, took its form mainly from the previous course of the debate; and from this cause, as well as from others, particularly the nature of the subject and its nearness to the region of abstract principle, it supplies but an imperfect statement of opinions which I am desirous to place under the cognizance of members of the University with more approach to completeness.

The immediate question, contracted as at first sight it may appear to be, touches the whole range of topics connected with national religion, and with the connection between the Church and the State. Yet the positive argument on both sides is concise; while almost all detail goes to illustration, and to the removal of objections. On the one side, it is the presumptive claim of the Jew, bearing civil burdens without limitation, to the similarly unrestrained enjoyment of civil rights. On the other side, it is mainly the maxim, that the

constitution of this Christian nation, having now a Christian character, ought not by any act of us, its guardians, to be divested of it; a maxim which, thus generally expressed, appeals to instinct not less than reason for its support.

I am not ashamed to confess that, upon a first view of these rival considerations, the latter is calculated to make the livelier impression. But it is not the less my duty to avow, how very different with me has been the result of prolonged reflection: how I have found both the political claim strengthened, and likewise the religious objection enfeebled, by every fresh and widened examination of the facts bearing upon them.

By way of example of the first: I assume it to be a capital rule of policy, for the preservation of the mixed government of this country, under the conditions of the present time, that the elements out of which our representative system is generated should be mixed; that the sway of numbers should be limited by intelligence, virtue, and respect for order; and that, in the absence of any test at once direct and secure, we should make the best of such materials as are at our command, and should be content to adopt property partly as a criterion of intelligence in a liberal sense, partly as a guarantee for general stability of character and conduct. This recognition of property is, I do not say, more effective, but more palpable and methodical, now than it was before the Reform Act. We had then a chance medley system, which stood upon its working capabilities in the gross, and, discarding theory altogether, afforded no logical plea, drawn from its own practice, to those whom it excluded. We have now a franchise, as well as a legal qualification for Parliament, very generally and distinctly, though variously, related to property as its basis. But if we take this view of our representative institutions, if we feel that they are now dependent less than heretofore upon prescription, and more than heretofore upon direct appeals to reasoning for their hold on the public mind; that the possessor of property, as such, has now a far stronger constitutional argument for admission to the Legislature than he had before the great change of 1832; we cannot but acknowledge that the claim of the Jew, upon civil grounds, whether it be paramount or not, is at least a strong claim both in point of policy and in point of justice.

But here we may be met by two popular objections. It is said, that the claim of the Jew should not be placed on the ground of right or justice. First, because justice does not

change, though policy may; and as no one will contend that the exclusion of Jews from the Legislature has been unjust to them during all the centuries for which they have been inhabitants of England, therefore it cannot be unjust now. Secondly, because there are no civil rights, except such as the law confers. It is thus attempted to place the argument for the removal of Jewish Disabilities on low grounds, so that it may come into disadvantageous collision with the pleas of religion which are urged against it.

Now with regard to the first, however true it may be that the ultimate principle of social justice, or proportionate dealing as between man and man, does not alter, yet it is obvious from the very terms that its practical application must be liable to change, because it depends upon relations between men and classes of men, which relations are subject to constant modification. To take a comprehensive form of illustration: the intellectual relations of sovereign and subject are very different now from what they were in the time of Charlemagne, or of Henry VIII., or even of William III.; and in proportion as the latter has come nearer to the former, it has become just that prerogative should (whether formally or virtually) be narrowed, and popular control extended and confirmed. The doctrine of the original compact, taken in the letter, was doubtless a fiction; but it was a fiction embodying much truth, for it taught that the classes and persons, of whom society is composed, meet upon terms, and are bound to observe terms one towards another. It is not less true that those terms alter with the lapse of time, and with the change of the minds and the conditions of men. Happy is that nation, of which the social development is so orderly and continuous, that, in the most formal and seemingly new enunciations of civil maxims, it can found itself upon immemorial tradition, can assert itself to have inherited and not acquired, can maintain its precious property in the past, while it makes improved provision for the future, and can allege that it commonly has occasion to do no more than reduce to more determinate expression what it before less determinately held. Most eminently has this been the case with the English people; and yet, even with regard to them, who can doubt that much has been justly claimed in later, which was justly withheld in earlier times? And, if so, then that here, as elsewhere, the application of the immutable principles of justice to the shifting relations of society must be determined by successive generations for themselves, accord-

ing to their several diversities. So obvious and resistless is this law of human affairs, that they who decline to recognise any claim as one of justice because it has gradually emerged, and is as it were born of events, never can succeed in preventing the recognition of such claims, but may unhappily succeed in giving to that recognition a degraded character, in converting every question of rights into a mere conflict of powers, and thus in expelling from political controversy all those higher elements by which, in a greater or a less degree, its vices are redeemed and its dangers neutralised.

From an outcast the Jew came to be only an alien among us, from an alien he came to be a citizen, from a citizen having rights of person and property only, he has obtained by fresh stages access to the franchise, to the magistracy, and to municipal government.

It is the part of political prudence to graduate such transitions but, with political prudence, in the discharge of that office, justice may go hand in hand, and may require us now to concede to a demand which, in an earlier stage of social development, or in times of a different doctrine and practice as to national religion, it might have required us to resist.

If the principles upon which our laws and institutions are modelled supply a basis of civil right for the Jewish claim, we have then only to inquire whether the concession of it will entail the violation of other and more sacred, or else more extended, rights; if it does, we must refuse—if it does not, we must grant; but in either case it will be justice, and nothing less than justice, that decides.

And with regard to the second objection, that there are no civil rights except such as the law confers, I cannot but think that, when examined, it will be found to resolve itself into a question of terms. Surely it is the whole office and function of law to reduce to a definite form rights, or, at least, claims to rights, which were before real though indeterminate. No law is good, unless there be reasons for its enactment: but, if there are such reasons, they must be founded, either on rights of some one or more persons, or, if the term right be too determinate and rigid, on such equitable claims as it is the duty of a legislature to convert into formal rights. Either, therefore, as we may think fit to choose our language, there are rights which the law does not recognise, or else, the non-existence of such rights being conceded, there may still be an obligation of justice to create them. I recognise the wisdom of resisting all attempts to confound any claim to political privilege with

the universal claim (itself, however, subject to modifications) to life and liberty, or even to property ; yet political privilege, if it be conferred according to reason, must follow fitness ; and where there is fitness, in such a form as can be grasped and defined by human law, then as real a claim to political privilege may be asserted, as if it were a question of the first conditions of personal freedom.

I hold, accordingly, that the political argument for the removal of Jewish Disabilities is strong on the ground of prudence, and is also strong on the ground of justice, without any condemnation of the policy which has made the admission of Jews to privilege a gradual admission, or any extravagant notion of titles to political power antecedent to the definite sanctions of law.

I turn now to examine the religious objection to the admission of the Jews to Parliament and political office—namely this, that our constitution, having at present a Christian character, and belonging to a Christian nation, ought not by any act of ours to be divested of it.

It appears to me that it would be unreasonable and unjust to demand that, for the sake of completing the political *status* of a very limited class in the nation (scarcely more than a thousandth part of the community), we should make an essential change in the religious relations of the rest of the community to the State ; in the securities which they at present possess, that their religious interests, so far as they depend upon the State, shall receive no prejudice, but, on the contrary, furtherance from its proceedings.

But, on the other hand, I ask from a candid listener the concession, that since the political claim of the Jew, as a citizen bearing the burdens of the State, and possessed of property and intelligence, is definite and strong on its own ground, it shall be held valid to every intent and purpose, except it can be shown that some such essential, or at the least serious and extensive, change, unfavourably affecting the rest of the community, is to follow upon the concession which he demands.

There are several senses in which a legislature may be called Christian. For example ; either because all its members profess a known and definite body of truth constituting the Christian faith ; or because they all adopt the designation of Christians ; or because, from the great preponderance of Christians in its personal composition, from their generally representing Christian constituencies, from the admitted principles of the constitution under which they are to act, or from

the high and earnest tone of character prevalent among them, or from any or all of these causes in combination, a Christian spirit pervades and regulates their legislation.

Our legislature was once Christian in the first of these senses. It is now Christian in the second. If the Jews shall be allowed to enter it, it will, I fervently hope and firmly believe, remain, much as it is now, Christian in the third ; and it will, in that sense, be Christian under each of the aspects to which I have referred ; namely, as composed of Christians in an immensely preponderating degree ; as representing constituencies similarly composed ; as being summoned to act in the spirit of a system of Christian laws, and to be the great council of a Christian Queen : as being made up of men, among whom the sense of responsibility and standard of personal duty are, on the whole, evidently rising.

I hope my reader will keep in full and clear view, during the perusal of these remarks, the essential distinctness between the Christianity of Parliament as it is dependent upon a profession of the name, and as it is dependent upon these living sources.

Endeavouring to guard against that common form of self-deception in which we dwell upon words without carefully considering how far their relation to ideas is constant, and how far variable, I must confess it appears to me, that the interval between the first and the second of the three states of national or rather legislative Christianity I have described is a wide one ; and the interval between the second and the third, a narrow one. I speak now not of sound, but of sense ; for, with respect to the former, the case is exactly the reverse. We have made changes, great and substantial in a religious sense, though I do not say greater than the altered and divided state of the community has demanded : we are now called upon to make one in its essence small, but which, it appears to me, is thought great, and not unnaturally, because it parts with a symbol, a figure, and an echo of what is great. The proposition, that all the members of a legislature should be united in the profession of those truths of revelation from God which make up the Christian faith, undoubtedly announces a principle, and, whether at all times applicable or not, a great principle ; and defines a broad ground of common action for those whom it includes : but the proposition that, after they have ceased to hold, or to profess to hold, in common the distinctive articles of the Christian creed, they should still plead their uniformity of name in bar of the civil

rights of others, enunciates no principle that has, so far as I am aware, any adequate ground in history, or in philosophy, or in religion, or in practical utility.

But have I truly represented the Christian title of the Legislature as no longer implying an agreement in the articles of the Christian Faith? Or, again—do I imply that the Christianity of the Legislature is valueless and unreal? I shall endeavour to show, first, that I have truly represented the breadth of that transition which we have already made: secondly, that the present Christianity of the Legislature is not valueless and unreal,—that, on the contrary, it should, even though incomplete, be held most precious by every considerate as well as every pious mind: yet, I shall also contend, that with that which is real in the Christianity still professed by the Legislature we are not now about to part; but we are about to part with a title which we should dishonour by employing it for purposes of civil injustice, and which, if we so employ it, may become perilously delusive to ourselves.

It is urged by some persons that, although those who now find access to Parliament are not agreed among themselves in the confession of any body of distinctively Christian truths, yet that what the constitution requires is not the mere Christian name, but “the true faith of a Christian;” and that thus the existing laxity has arisen only through an evasion of the spirit of the law, for which not the law itself, but the individual who has so evaded it, is responsible.

The words appear to have been first employed in the reign of James I. for the purpose of enabling those Roman Catholics, who did not recognise the deposing power of the Pope, to swear allegiance to the crown without renouncing the papal supremacy. And I suppose there can be little doubt that, by “the true faith of a Christian,” it was then really intended to designate the doctrine of the creeds, admitted alike by recusants and by members of the Church of England; and that this doctrine was regarded, at least on our side, as the true and essential faith of a Christian, apart from the questions, however important they might be, which were controverted with the Church of Rome. So far, therefore, as the original *animus imponentis* is concerned, I admit the substantive and definite meaning of the words. Persons were long liable to be burned by law, and were burned in fact, for the denial of the divinity of our Lord, after those words had come into use; a conclusive proof that they were not then included in the authorised sense of the declaration.

But, when I survey the course of subsequent legislation, I

cannot deny that the constitution has since conceded to the Unitarian, however slowly and reluctantly, an acknowledged competency for Parliament and office. That the concession was made piecemeal proves it to have been deliberate, and obliges us to reason from it in its full extent accordingly. Let us observe the facts. First, the capital punishment of heresy is abolished. Then an actual toleration is provided for those who subscribe the doctrinal, and only object to the ecclesiastical, articles of the Church. Then acts of indemnity are introduced for all those who had entered Parliament or municipal corporations without submitting to the Sacramental test. Then we see substituted for the subscription to the doctrinal articles, which had ceased to be enforced, a declaration involving simple belief in the Godhead of our Saviour. But this declaration also is allowed to become a dead letter. Next, by the deliberate removal of that test, and the establishment of perfect toleration, the Unitarian is placed, in the eye of the constitution, on a footing of perfect equality with other Dissenters. And finally, by the repeal of the Corporation and Test Acts, he with them obtains as full and unequivocal a right to sit in Parliament as the professors of the national religion, and the declaration "upon the faith of a Christian" is retained in the very law intended for his relief; retained therefore now not as a test to repel him, but (to use the language of Lord J. Russell) as a sanction suitable for him. I therefore, for one, feel myself entirely disabled from contending that the constitution demands of the Unitarian any thing beyond what he can honestly give, when he declares himself a Christian in his own sense. And, if so, I apprehend it is quite impossible to urge that there is any definite body of revealed truth to which the Unitarian*, whose case I take by way of illustration as the extreme one, adheres both in common with us, and also in contradistinction from those who do not bear the Christian name. For it must be observed that the recognition of our Lord as an inspired teacher, and of many of the facts of his history, is not confined to Christians by name, but may be found even among the fiercest enemies of Christendom. It is therefore that name which unites together members of Parliament, as it is now constituted, without any fixed or authoritative relation to the substance of which it is properly the index.

* It may be as well to mention that I take the description of the Unitarian creed from Mr. Belsham's *Letters to the Bishop of London* in 1815.

Nor will it avail to say in reply, there are a few persons in Parliament who do not agree with us in holding by the creed, or the fundamental doctrines of Christianity, but the great mass of its members are agreed in those doctrines; from them our judgment should be formed, and we must overlook the minuter portion of those more widely separated, who are as it were lost in the general composition of the body. For this completely shifts the character of the argument, and makes it depend, not on the nature of the creed, but on the numbers of those who hold it. It is, indeed, altogether an argument in favour of the admission of the Jew, except with those, if such there be, who anticipate their entering Parliament in large numbers.

I shall avoid altogether the painful and invidious questions which arise upon a comparison of any affinities which our religious creed may have with that of the Unitarian and that of the Jew respectively. Because, even if the results of such a comparison could be satisfactorily worked out for the individual mind, they would be wholly unavailable for the decisions of Parliament. The law can only deal with what is tangible. A creed, in its sphere, is tangible: it has an historical as well as a theological form and body. Even a name, in its own distinct sphere, is tangible too; and Parliament may, if it thinks fit, legislate for names. But an analysis of religious doctrines, and a fresh classification of them according to their presumed degrees of importance, will no where afford any breadth of ground sufficient for public law to occupy or to maintain.

I stand then on the proposition that as matter of fact there is no creed, or body of truth, definite and also distinctive, in which the present parliamentary profession of Christianity unites or purports to unite us, and by which it likewise separates us from those whom it excludes.

But, further, I do not conceive that when we thus recognise the slenderness of this bond, we therefore imply that there is no more substantial element in the Christianity of the State than the nominal and exclusive profession of Christian belief. I have already spoken of a Christian character of parliament as referable to the throne, the law, the nation, and as dependent on the personal belief and qualities of its individual members; I may also name the inward sense of obligation under which they take their vows, and the solemn ordinances of Christian worship with which the proceedings of each day are commenced. Over and above all this, though associated

with it, there is what I may describe as an atmosphere of Christian opinion and feeling, a diffusion of Christian influences, which exercise over men a sway far beyond the bounds of their own consciousness, and either prompt or at least restrain them often in modes they would themselves the least suspect. In short, it will be thankfully felt that, through the Divine mercy, religious sentiment and affection often pass beyond those dogmatic limits within which we are more strictly entitled to look for them: that, so to speak, the living waters overflow the well-compacted cistern, which has been framed to preserve them in certain purity for those who thirst. From all these various sources is drawn what is vital and essential in the Christianity of the Legislature.

But which of them all is to be closed by the proposed measure? I know of no claim which the Jew can have to demand, that on his account the floor of Parliament shall become a neutral ground for all religions. I do not conceive, that the duty of the Legislature to promote the welfare of the Church has been abrogated by the formal admission of Roman Catholics and Dissenters: neither then would its less definite but still wider obligations in regard to Christianity at large, considered as the aggregate of the several professions, be annulled by the admission of the Jews. When Parliament has been called upon to consider questions affecting the interests of the Church, we have never been told that such functions are to be put aside, because we now have among us those who cannot enter upon them under the same feelings and in the same position with ourselves. The Jew has a very strong claim, when he pleads to be allowed to take part, as far as he is able, in the existing duties of Parliament: but it would fail him utterly, if he should demand of us that the duties of the Christian members of Parliament should remain unfulfilled, or should be positively annulled, for his convenience. His candid opponents will allow, that there is a semblance of equity in his plea to be admitted to the enjoyment of civil honours, not to be absolutely disqualified from civil and secular duties in Parliament on account of that portion of its business which is directly related to religion; but his most zealous coadjutor must admit, that his plea of equity would be converted into unjust and insolent exaction, if he should found on the entrance of a few persons of his persuasion into the House of Commons the demand, that the great mass of that assembly should cease, on account of his inherent disqualification, from the discharge of any duty that is recog-

nised and suitable, and especially from imploring the blessing and guidance of God in the only way in which they can lawfully implore it, namely, in the sacred name of their Redeemer. Such a change as that would, indeed, deprive the Christian of a privilege, but it would confer none on the Jew.

I now speak of formal alteration, which is thought by some likely to be consequent on the admission of persons not Christian to assemblies which have functions specifically Christian to perform. We have no cause then, as I conceive, to fear such alteration by way of consequence from this measure; none on any ground of right, for the reasons which I have indicated, none on any ground other than of right, for reasons too obvious to require particular mention.

But it may be said or felt that, short of formal alteration of any kind, a change still both essential and profound might pass over the spirit of Parliament: the Christian standard of general opinion might be reduced to a pagan level, the Christian sympathies really though imperfectly diffused there might be repelled and driven home to the silent breasts of individuals: and this, I believe it is, in the first instance, that religious persons apprehend from the admission of the Jew. They measure the immense distance between his creed, which treats Christ as a deceiver, and ours, according to which He is Alpha and Omega, the beginning and the ending, and all is summed up and centred in His sole Person: and they think, that the presence of the former will act on the latter as a virulent poison, of which ever so small a quantity suffices to corrupt a mighty mass. But although this feeling be natural, and, as arising from the love of the Highest and Holiest, entitled to respect, yet those who would thus apply it are, perhaps, neither strictly reasonable nor quite consistent with themselves. For, when they are pressed in argument by the present state of Parliament, they will urge, and urge justly, that we ought not to estimate it only by reference to the extreme latitude of dogmatic belief which it includes, but should observe how a corporate sentiment and temper is formed according not to the extreme but the predominating elements; how the faith, commanding the allegiance of the vastly greater number within doors and without, stands in a certain sense as the faith of the whole, and fixes the movement of the whole, imperfectly as the component parts of it are associated together in common belief. It is within its own sphere a consoling truth, that the power of the Gospel is not bounded by its letter, that inscrutable influences operate among us to produce true re-

religious sympathies, even where the great laws of dogmatic and ecclesiastical unity cannot reach. But then I ask those, who apply this consideration to qualify any argument drawn from the present diversities of the composition of Parliament, to bear with those who apply it a little farther: how are they authorised, or why should they desire, after admitting that these genial influences pass in some way beyond the boundaries of the entire and substantive Christian system, to deny that they may likewise pass beyond another barrier—a barrier conventional more than real, useful, therefore, as long as as it is respected, but no longer—a barrier of yesterday, unknown to apostles and martyrs and saints of earlier time, which human prudence set up to meet the purposes of a former generation, and which human prudence may remove now that those purposes can be served by it no longer.

On the other hand, I have not concealed from myself that the removal of Jewish Disabilities is one of a series of measures, all of them tending to bring about a certain incongruity between the personal composition of Parliament, and a particular portion of its functions, especially and mainly those, which are connected with legislation for the Church of England. I find such a tendency in the Acts of Indemnity, in the Act of 1828 which formally admitted Dissenters, in the Act of 1829 which emancipated the Roman Catholics. But neither can I deny that these measures, incongruous if the State had had the Church alone to care for, went not to destroy, but on the contrary to establish congruity between the composition of Parliament and other indispensable duties which it had to perform; namely the duties of general provision for civil and social welfare, upon the principles of a free representative system, and in a community of mixed religious professions. Which one of these conflicting considerations should prevail was, in each case as it arose, a question of degree. The solution of it could not but depend on a multitude of other questions of degree: how far religious divisions had become fixed among us, what was their extent, what the nature and relations of the prevailing creeds, what the general tone of public opinion in regard to any right of political representation, what the disposition and habit of Parliament as to interference in religious concerns, what the relative amount and weight of its duties in this department and in others. Every one of these questions was in a fluent state from generation to generation; it may almost be said from year to year. But the mode and time of the answer in each case has distinctly shown a growing pre-

dominance of civil claims, as such, over considerations drawn from the religious character of the State; and every new concession has of course materially weakened the arguments to be drawn in the next succeeding contest from that religious character. The principle of exclusion from civil office on religious grounds was in its own nature one which depended upon the existence of the very closest relations between the Church and the State, and upon a particular tone of the public mind in regard to them. Entailing such very clear and definite disadvantage on particular classes, it could never be vindicated, after it had once been subjected to serious question, except upon some distinct theory, wrought out with at least a show of consistency into the practice of the State. We have no longer such a theory; and he who plainly announces this, does not alter facts, but merely discloses them. Our religious institutions, thank God! subsist and thrive; and in their venerable age, and amidst their many dangers, are rich with all the vigour and all the promise of early youth: but they subsist as facts, by their own vitality, and by their hold upon the general affection, respect, and confidence, not in obedience to, nor in conformity with, any logically ordered speculation. This affords no reason for wanton change; but it affords a strong reason against applying to the weak, after we have withdrawn them from the strong, principles of policy which never could be respected after they had ceased to be impartial.

The question, therefore, is not merely whether the admission of the Jews to Parliament will place another element, wanting at least in the presumable qualifications for a portion of its duties, by the side of those which are already found there. I must regard the constitutional position of Roman Catholics and Dissenters in the Legislature, not as the chance triumph of a particular party or opinion, but as established, and, if I may so say, normal and organic facts, no longer to be reasoned upon, but to be reasoned from. From these it is that the Jew reasons; and I for one cannot adopt by way of reply that common language, "because we have done wrong once, do not let us commit more wrong:" first, because, upon the principles I have pointed out, it was not wrong at all to make those changes; secondly, because there are many principles which in the loose language of politics may be called wrong, and which nevertheless when they have been partially admitted, it may be just and right to admit impartially; and this, of the removal of Civil Disabilities on religious grounds, may well be regarded, even by

those who abstractedly disapprove of it, as among them. The question then returns upon us—can we show not a distinction merely, but such a distinction between the concessions already made and the concession now asked as, upon the principles which dictated the one, will warrant our withholding the other? If we say, “You are few,” the Jew replies, “We shall have the less influence.” If we say, “There is greater distance between our creeds,” he answers, “If so, yet there is less rivalry.” He challenges us to show that the admission of a handful of his brethren will metamorphose a whole crowd of Christians, nay of Churchmen, and in some new sense disqualify them for the performance of their Christian duties; he points to the nation, in which outside Parliament he exercises the franchise, and which is still a Christian nation; to the bench of magisterial justice on which he sits, and which still administers Christian laws; he points to the estimation in which parliamentary seats are held among us as a measure of his grievance in being excluded from them; and I for one cannot resist his appeal, so long as I conceive that any risks which it involves may be met in a manner much less violent, as well as much more intelligible, than by its rejection.

This, however, is an apologetic plea. But it appears to me that there are stronger reasons, of a religious kind, for declining to found an opposition to the full political emancipation of the Jew on the ground of that exclusively Christian title which it would take away from us.

If we argue against the fitness of the Jew for parliamentary duties because he does not possess that title, we shall for every practical purpose find ourselves asserting also the affirmative side of the proposition, namely, that such a title, defined as it now is, constitutes a sufficient guarantee of fitness to legislate in matters affecting the Church. If we plead the power and efficacy of a Christian designation as something so weighty and essential, that the want of it is to debar the Jew from what would otherwise be his civil rights, we must abide the consequences of our own reasoning upon occasions when any question may arise in regard to the distinctive tenets of the Church, to the maintenance of the integrity of her doctrine and discipline, or to breaking down the barriers which mark them off on this side, and on that, from Roman Catholics and Dissenters. I am reluctant to invoke the aid of those fellow-Christians in excluding the Jew from civil privileges, on the ground of a religious unity distinguishing us all in common from him, unless I were also prepared to

make light (in a civil sense) of laws or tenets distinguishing us from one another. Suppose such modes of persuasion were attempted, and suppose they were efficacious, and that the result should be the rejection of the Jewish claims; and that the next day we had been called upon to consider whether the religious restraints upon our Universities were to be relaxed in order to allow of the general and obligatory reception of Roman Catholic and dissenting students. I confess I should feel an incongruity between the arguments by which the importance of our common Christianity had been magnified to exclude the Jew, and the arguments by which the importance of our distinctive Christianity had been magnified to exclude the Dissenter. Adverse to whatever may endanger the integrity of the institutions of the Church of England, I see great, though perhaps not immediate, hazard in fighting battles, which must pass for hers, under symbols which are not hers, but which, after having made them serve our purposes, we shall scarcely be permitted to repudiate.

My conviction is, that those who may from henceforth oppose the admission of Jews to Parliament on religious grounds, will, if the struggle be a protracted one, gradually involve themselves in the embarrassments of a false position. It is one thing to frame an argument and to give a vote on a particular occasion, but it is another to wage the war from year to year. It is in the nature of prolonged parliamentary contests, that their basis alters; the stress is shifted from one point to another through causes much subtler and more profound than the mere will of the combatants; and it is essential to consider at the outset, where in the long run the pressure and the strain will lie, and whether the means of resistance are logically and morally adequate. And it may also be better to consider this before the strife is well begun, than in its middle, or towards its close. In the argument on Jewish Disabilities, the pressure will lie more and more upon that Christianity of which so much is said, not upon the real Christianity of thought, character, and feeling, which this measure cannot destroy; but on that designative Christianity, void of definite, substantive, historical meaning, which forms, I grant, for the present, so effective an instrument of popular and even parliamentary appeals. More and more strictly will the nature of that nominal or symbolical bond be examined; more and more, I fear, will the venerable name be exposed to slight and irreverence, of which some part may be chargeable upon those who are content that it should be used as a name alone, and used in

that shadowy signification for the undoubtedly invidious purpose of withholding from men who bear civil burdens the correlative opportunities of access to civil privileges. We shall be told, and told with truth, that there was at least intelligible meaning in our policy, when we conceived of Parliament as the lay organ of the Church, and excluded from it all who did not adhere to that known and legally defined establishment; but that, after we had so generalized our constitutional Christianity as to leave to it absolutely no standard whatever of truths at once common and distinctive, it became absurd, as well as inequitable, to plead this colourless abstraction against a claim of civil right, humbler in its pretensions, limited as to the numbers who put it forward, but yet in its own sphere palpable and solid. Nor shall we be told this alone; for if the resistance is to be made good, it must be by continually enhancing in argument the moment (inasmuch as this will be the turning point) of a naked Christian designation, a course which cannot long be held without virtually narrowing in the public mind and view the radical distinctions which (if we will open our eyes to facts) separate the creeds of some Christian persuasions from one another, and proportionably endangering the verities of the Christian faith. This is not a merely arbitrary supposition. It is sustained by the analogies, if not the parallels, of our recent history. It is a proposition supported, I conceive, by experience, that when public combinations are formed upon negative principles, for purposes of resistance or restriction, the pursuit of those purposes is often found after a time greatly to derange the relative positions of the parties of which the combination is composed, and even to leave them, when the first object has been gained or lost, as the case may be, with contentious questions to settle among themselves, even more full of bitterness, perhaps more vital too, than that which gave rise to their original association against a common foe. And if I am told that there is danger to the Christian tone of the legislature, or of public opinion, from the admission of persons not Christians into Parliament, I must, without at all going the full length of an absolute denial, assert the duty of choosing, among opposite dangers, that which appears to be the least; and must, therefore, be chiefly careful to avoid any policy such as might even indirectly tend towards resolving into more vague and indeterminate forms the well-defined intelligible Christianity of the Church of England, which it is so deeply important, both for the religious and the general interests of the country, to uphold.

In the speech annexed, I have mentioned the practical difficulty which arises, not out of the present measure so much as out of the series to which it belongs, in reference to legislation for the Church, and to the administration of church patronage by the Crown and its Ministers, especially in the highest class; and have pointed out what appears to me by far the simplest and safest remedy, namely, the informal but sincere and steady adoption by politicians, whatever be their party, of a rule, or a habit as it may be called, of regarding the general sense and voice of the Church as entitled to great weight, both in respect to laws affecting her internal concerns and to ecclesiastical appointments. Now that the State has made itself in a certain degree external to the Church and her laws, it is time that we should consent in a certain degree to view the Church as a body external to the State, should think more of emancipating the distribution of offices in the Church from servitude to political party, and should seek to make her living organs, instead of echoing back the voice of any section, religious or political, or the notion of the day, faithful exponents of her own system, defined by her own laws. It seems to me a paradoxical notion, which will not bear scrutiny, that the Church has derived advantage from the relaxations that have taken place in the composition of Parliament, farther than as, by awakening an apprehension of real dangers, they have helped to throw her back on the development of her own energies. Never, perhaps, for generations has she been placed in circumstances so critical, as to the security, in certain respects, of her most vital interests, as during some of the last fifteen or twenty years.

Good sense and moderation, a manful resolution to resist all temptation to tamper and experimentalize upon our religious system, an honest regard to the laws and formularies of the Church, as indicating the spirit in which new laws or new appointments should be made for her, are now more than ever needful, and may yet avert a crisis otherwise too probable. But the admission of Jews to the Legislature is neither the source and spring of the danger, nor would it in my judgment make any sensible addition to the difficulty of taking due precautions to avoid it. Perhaps, on the contrary, by the new light which it throws on the actually subsisting position of the Church, the measure may tend to inspire those dispositions, which, if sincerely and consistently entertained, would afford every reasonable security.

I know not how far what has been said may tend to satisfy

or soothe the religious sentiment which has been aroused in opposition to the Jewish claim. At least I trust there has been nothing, except what is consistent with the most frank acknowledgment on my part of the purity of its origin, and of the real kindness of temper towards the Jews with which it is so generally associated.

There is a sentiment of another kind, and not without its title to respect, which reasonings can hardly satisfy; that sentiment which abhors the disturbance of what exists, and is vexed at seeing that one change leads onwards to another. The only cure I can suggest for this uneasiness is, more care to distinguish between what is temporary and what is permanent, between secondary obligations which qualify and supersede one another, and essential obligations, which cannot be superseded nor qualified; and, even while reckoning up in its mere quantity what is surrendered, to reckon up also what is retained. It is surely a surprising and a refreshing spectacle that presents itself, when we review the history of this country for the last fifteen years, and consider how the fiery excitement of the period of the Reform Bill has grown cool, the loud demands for organic change have sunk into low whispers; the gift of power then conveyed, amidst the trembling anticipations of many even of those who did not dare to withhold it, has been, beyond all example in history, gracefully and temperately used. Without any attempt to beg particular questions, but as a sedative to general discontent with the amount of change which has been made, it is surely not unreasonable to point to the monarchy, and all its kindred institutions, still overshadowing the land in their chastened and peaceful splendour, and to ask whether this could in the common order of Providence have been so, but for a discriminating prudence in the public mind, which has frankly and ungrudgingly recognized a law of change, applicable to human affairs, as well as and by the side of a law of permanence?

Lastly, though in an argument of this kind I am reluctant to mix personal matter, it may, perhaps, be right that I should state why the reasons which led me to oppose, in 1841, a bill for granting municipal privileges to the Jews, have not guided me to a like decision on an occasion when the greater question of admission to Parliament is agitated. My opinion is now, as I declared it in 1841, that the municipal privilege could not be granted and the Parliamentary privilege withheld. The ground on which, having given to the Jew himself the franchise, and to every class of professing Christians the freest

entrance into Parliament and office, we could refuse to the Jew what yet remained for him to ask, was narrow; and I then thought, as I think now, that it would not bear to be narrowed any more without total surrender. When municipal privileges were granted in 1845, almost without contest, I took no part in the proceedings, mainly because if I had shared in them I must either have affirmed or denied the principle I had before asserted, that they involved the corresponding concession with regard to Parliament, and I thought it better to take time for consideration than to bind my judgment by a premature decision on a question which had not practically arisen.

I had, at an earlier period, striven to persuade myself and others, that the nation had not yet reached the point at which it would become impracticable, and even if practicable unjust, for the State to act upon the rule of exclusive support to the Church, with simple toleration to other forms of religion; setting aside particular cases in which our hands might be considered as tied up by the pledges, direct or implied, of those who had preceded us. It may be that I unconsciously strained the facts of the case, as they stood eight or ten years ago, in order to find for myself a warrant to cling to the cherished, and under given conditions legitimate, and even in my view obligatory principle, of unity in national religion; but, if so, it was the less to be denied (and I myself sufficiently perceived so much as this) that any further relaxations of our policy would render it impossible to appeal, with any kind of impartiality or consistency, to any principle of the constitution against the civil and political claims of bodies separated from the national Church. It remained indeed quite practicable to appeal to particular sentiments, vividly impressed upon the popular mind, as against measures like the endowment of Maynooth College, or the removal of Jewish Disabilities; but I never thought that so one-sided an application of a restrictive theory could be either just or endurable.

At that time I was so sanguine as to cherish a belief in the capacity of the reviving energies of the Church to reabsorb with rapidity a great portion of the masses detached from her; she was then gaining alike in extension outwards, and in harmony within. But since that period new features have appeared in the religious movements of the day: a disloyal spirit and a secret preference for an aggressive communion developed themselves, in a mode and with a force new to her experience; and though her inward vitality and consistency has endured and survived the strain, and real life and the capacity for truly great achievements rise higher and higher

within her, yet, as a public institution claiming to be the exclusive handmaid of the State for religious purposes, she has been so far weakened by this in combination with other and political causes, that she has, it may be said, silently surrendered one of her ancient prerogatives, that of being the sole recipient of the bounty, as she is also the sole subject of the control, of the Legislature. I am aware that the principle of indiscriminate endowment, to which in a great degree I conceive that she has given her passive adhesion, is distinct from that of indiscriminate admission to Parliament and office: but they are nearly related one to another; the latter indeed, in my view, is morally and logically rather antecedent than posterior to the former: and it is from the acts which have taken place in both departments, and also from other proceedings in direct connection with the Church, which, in my opinion, have now fixed the policy of the State in such a sense as to make it unfair to plead religious opinion in bar of civil privilege. My own language of late years has therefore been, that as citizens and as members of the Church we should contend manfully for her own principles and constitution, and should ask and press without fear for whatever tends to her own healthy development by her own means and resources, material or moral, but should deal amicably and liberally with questions either solely or mainly affecting the civil rights of other portions of the community. Disclaiming every forced construction of the principle of such conduct, declining to be tied to it as a set theory, far less as a calculating machine, asserting a perfect freedom to judge of its application to each particular case upon its own merits, I think it reasonable in itself, and well adapted to the spirit of our institutions, and to the genius of the people, as well as to the exigencies immediately connected with our divisions in faith and in communion, and to the political temper of the age. This I regard as our appointed function: in this, as I think, the duties of churchman and of patriot are harmonized under the conditions of the time in which we live, and for which we are to consult and to labour.

I have been the rather induced to add these concluding remarks, because although they are more immediately connected with a personal question, yet they also have a relation to some of the most important problems connected with the social organization of man, and to the deep though silent changes which have long been passing upon the public mind in regard to those problems.

W. E. G.

December, 1847.

SPEECH.

MR. W. E. GLADSTONE, who rose along with one or two other honourable Members, said,—I regret to stand in the way of any other Gentleman who may be desirous to address the House; but I am quite sure that I shall not appeal in vain to its indulgence, when I refer to the fact, that my honourable Friend and Colleague the Member for the University of Oxford (Sir R. H. Inglis) has to-night presented the petition of that learned body against the projected measure of the noble Lord, and when I state, with deep regret so far as regards my relation to that learned body, that, not without pain indeed, but after full consideration, and with firm conviction, it is my intention, because I feel it to be my duty, to support the measure which we are now assembled to discuss.

I will first ask the permission of the House to say a very few words upon the relation in which I stand to my constituents. I think honourable Members will concur with me, that there is something peculiar in that relation; that in ordinary cases of representation there is a palpable difference between the person who sits here and those who send him here; that he ought to be, and commonly is, their superior in mental cultivation and in opportunities of knowledge, and that it is an easy thing comparatively, under these circumstances, for him to act upon that which is undoubtedly the true principle of representation, namely, to follow the conscientious dictates of his own judgment, whether they happen to coincide in the particular case with the judgment of his constituency or not. But for me, Sir, the circumstances are very different.

I have received the honour of being chosen to represent in this House a body, of which I gladly acknowledge that I must look upon the members of whom it is composed as being in ability, in knowledge, in all means of judgment which depend upon individual character, either superior, or, on the least favourable showing, equal to myself. But I am sure I shall be borne out by the concurrence of all who hear me, when I say, that fact will not absolve me in stifling the dictates of my own judgment and conscience, feeble as the first may be, with regard to what the principles of the constitution and the interests of the country may require. It greatly increases the responsibility attaching to error; but it does not in the slightest degree allow me to shift that responsibility by saying "it was your act, I did as you bid me." It leaves me bound, just as if occupying any other seat I should be bound, to take advantage of the position in which we are placed as Members of Parliament. I feel that here we have opportunities of judgment and of information in our own profession—for it may with some truth be called a profession—which others cannot have; and that I should be betraying my own plain duty to my constituents, if I were to succumb to their judgments in a case where I was conscientiously convinced that there was a better course to pursue.

With regard to the positive arguments for the admission of Jews to Parliament, I shall be brief. The noble Lord has stated, and in terms satisfactory to me, nearly all that I think requires to be stated on this head. His doctrine with regard to the general fitness of the Jew for representation, and the hardship of refusing to qualified persons the right to sit in Parliament, has indeed been contested by the assertion that to withhold political privilege does not constitute a grievance. That is a proposition which I apprehend can neither be affirmed nor denied in universal terms; it must be judged by the circumstances of the case. We are bound to inquire whether there are substantial causes of disqualification, which oblige us to draw a distinction between one class of citizens and another class *prima facie* entitled to occupy the same

position. If there are strong and adequate causes incapacitating parties for the performance of certain duties, then to withhold from them political privileges does not constitute a grievance; but, if the opponent can show no such powerful and substantive reasons—if it is admitted that the parties are competent for the duties which it is proposed that they should discharge—then, I say, in that case, it is true, and it must be affirmed, and must be reiterated in the face of any abstract doctrine to the contrary, that to withhold political privilege does constitute a grievance. And further, after a presumptive case of general competency is shown, the burden of proof must lie entirely with those who seek to defeat the claim.

Now, how stands the case of the Jew? How stands his case now, with regard to those points which tell in his favour? My noble Friend (Lord Ashley) has just delivered a speech, like all speeches which he delivers here, in which weight of character and weight of talent were remarkably combined (hear, hear); but when I listened to a part of that speech, in which, towards the close of it, he exposed the misapprehension that prevails with reference to the character of the Jews as a people, and described their remarkable qualities and their great capacities, I will not say that I asked myself whether my noble Friend was not involving himself in an inconsistency, but I could not fail to see—and he, I am sure, could not fail to see—that he was, at the least, greatly and powerfully adding to the force of the arguments, drawn from the considerations of civil right and of social justice, by which the admission of Jews to Parliament is recommended. He told us of their powerful intellects, of their cultivated minds, of their ancient and continuous literature, in every department, embracing every subject; he spoke of their indefatigable diligence, which outstrips even German assiduity; he said they had among them a greater proportion of men of genius than any other race; he stated that they had discarded many of their extravagant and anti-social doctrines, and had become much more fit to be incorporated in the framework of general

society. He did not allude to another point, but it is one with which we are all familiar, namely, their intelligence, and activity, and success in many of the pursuits of commerce and of industry. Thus much then I say—that at least the civil and political argument in favour of the admission of the Jew, though I will not yet assume that it is to override every other consideration, is as strong as the civil and political argument can be; and if you are obliged to withhold from him, on account of principles peculiar to you, those privileges to which he thinks that he has a claim, the grievance in his case will mount as high, according to the general principles applicable to such a subject, as it can mount in any case of a class excluded from general duties on partial grounds.

Now, Sir, I must confess, that, when I consider my own position, as having the honour of representing the University of Oxford, with respect to this question as a question of giving or withholding certain civil privileges, I feel not a greater reluctance to give because I have that honour, but a greater reluctance to withhold. I feel a very great reluctance to be the instrument, even in my own small measure, of placing the University in conflict with the civil privileges and civil rights, if such they be, of any portion of my fellow-subjects. I do not scruple to confess a feeling which I deeply entertain; I think that we have too indiscriminately and too long pursued that policy, and further, when I review the position in which we stand at the present moment, I, for one, am not satisfied with the practical results which it has produced.

But I pass on to what I grant must be the cardinal and the overruling considerations in this case; I mean the considerations connected with religion. My noble Friend (Lord Ashley) has discarded—and justly too, as I think—the argument drawn from the supposition that the Jews are a separate nation in such a sense as to be disqualified from the performance of civil duties; he says—and he says justly—that he stands upon a conscientious adherence to principle, and that the principle of religion. And now let me consider the way in which my noble Friend has associated that adherence to

principle with the vote which he proposes to give. He said that he was about to contend for the maintenance of a long established and an ancient system ; but shortly after he had told us that the system for which he was about to contend was a long established and an ancient one, he likewise told us—and told us, I think, with truth—that we have been for many generations in a state of perpetual conflict and of constant change, of progressive movement, all in one and the same direction. He told us that we had to contend, first for a Protestant Parliament, and now for a Christian Parliament. But I submit to him, that he ought to have begun earlier than that, because the first contest of all was a contest for a Church Parliament ; and the battle for a Church Parliament, fought between the period of the Restoration, when in point of fact formal dissent began, and the period of the Hanoverian succession, or perhaps I should say of the Occasional Conformity Act, was as fierce a conflict as any of the others. Even after Nonconformity had received the sanction of the law by the Toleration Act, it was still attempted to dislodge or to exclude the Nonconformist from the possession of political power. It appears, then, that you first contended for a Church Parliament—you then contended for a Protestant Parliament ; in both cases you were defeated. You were not defeated unawares ; you were not defeated owing to accident. You were defeated owing to profound and powerful and uniform tendencies, associated with the movement of the human mind—with the general course of events, perhaps I ought to say with the providential government of the world. And when we plead and argue upon the British laws and the British constitution, I really must ask with the honourable Member for Oldham (Mr. W. J. Fox) what right have we to fix upon some one particular period, be it fifty or one hundred or two hundred years ago, and to say, “ I will take the basis of that particular period, and I will say there begins, and there ends, the British constitution ? ” On the contrary, I say that the very same principle which makes me regard Magna Charta as a part of the British constitution, the same principle which makes me re-

gard the Bill of Rights as a part of the British constitution, and the Act of Uniformity, and other Acts—I do not mean to say as all equally important in all their provisions, but all forming material parts of our constitutional system—by the same principle, I think, in general justice, whether I like them or not, independently in a degree of personal opinion, we who meet here in 1847 are bound to recognise to a great extent as facts those laws which have fully and deeply entered into the political system of the country, which hardly any one desires to change, which no one attempts to supersede, which we all on coming here profess to accept, and which I think we are bound to assume as *data*, as fixed points, in our discussions, and therefore to apply and develope in the spirit of fairness and justice.

It appears, then, we have now arrived at a stage in which, after two or three generations had contended for a Church Parliament, and two or three generations more contended for a Protestant Parliament, each being in succession beaten, we are called upon to decide the question whether we shall contend for a Christian Parliament. And here I must say that my noble Friend (Lord Ashley) has made assumptions, which, if he could establish, I for one should not be found voting against him; and, I may say, not I alone; since certainly, so far as I understood the noble Lord who opened this debate in an impressive address, the same may be said of him. I thought the assumptions of my noble Friend with regard to the views of the promoters of this measure entirely inconsistent with the statement of the noble Lord—I mean as they respect the relation between religion and politics. My noble Friend says, that we are asked to make a public declaration that for all purposes of government and the making of laws Christianity is needless. Certainly such was not the doctrine of the noble Lord (Lord J. Russell); and I must say, without, of course, impeaching the candour of my noble Friend, that I think he has put an extreme and a strained construction on the sense and spirit of the measure itself. I do not think it amounts to what my noble Friend has said of it; I do not think

it does establish a severance between politics and religion. I think it amounts to this—it amounts to a declaration on our part (if it shall pass), founded on the whole circumstances of the case, upon our view of the actual state of our laws and of the society in which we live, its composition, and its temper, that there is no necessity for our absolutely excluding the Jew, as such, from an assembly, with regard to which assembly every one of us in his own conscience feels perfectly sure—as sure as man may venture, without presumption, to feel upon what is future—that the vast and overwhelming majority will long, will, as we trust and pray, always, continue to be Christians. The discussion, therefore, in which we are engaged does not turn upon the question whether the Christian religion is needless for the work of government and of legislation. It must first of all be shown that the admission of an extremely small fraction of Jews into Parliament would paralyze and nullify the Christianity of all those who sit there. We may consistently affirm that Christianity is in the highest degree needful for our legislation, and yet decline to follow out that proposition to a conclusion so rigid as this, that every individual who is not a Christian should be excluded from the possibility of becoming a legislator. I think my noble Friend had a latent consciousness that these two ideas were entirely distinct, for he evidently conceived it to be necessary for the support of his argument that he should assume the case of a very large number of Jews in Parliament. How, he asked—for I took particular notice of his words—how can the principles of Christianity govern the Legislature if a large portion of it should be composed of Jews; and in another place he assumed the case of a Hebrew majority. But I say that practically it is not the question what would follow from having either a Hebrew majority or a large number of Jews in Parliament; because none of us believes that, within any fairly calculable results of this measure, there will or can come any thing more than the admission of a few solitary Jews to Parliament, leaving the rest of that body exactly as it stands at present in respect to its religious pro-

fession. I believe, then, I may say that the connection between religion and politics is not only not denied by the noble lord, but that he emphatically asserted it ["Hear, hear!" from Lord J. Russell]; that he asserted that there was no department of duty in which the motives of the fear and love of God ought not to govern, and that you could draw no distinction in that respect between domestic or private duties and civil or political or public duties. But my noble Friend appeared to me, I confess, (though I am very anxious, like him, to avoid introducing into this discussion topics of a theological character,) to attribute too much of substance, and of efficacy, I must say, to the bond which is constituted by a profession of the Christian name, defined by the individual to himself alone, not embodied in laws or in institutions, or in religious communion of any kind involving necessarily the avowal of any body of fixed truths—he appeared to attribute too much to a bond of that sort when he said, "I will take that nominal profession as my criterion and my standard, and I will affirm that all who profess that name are fit for the exercise of civil duties, and that every man who does not consent to bear it is unfit to be admitted into Parliament." I think that he laid greater stress upon such a test than it will bear, though I certainly would not undervalue it, or any thing which tends in any manner to connect us with the profession of Christianity: still, I think that on religious grounds it would be very difficult for him to prove the unfitness of a Jew for the duties which it is proposed that he shall discharge here, without also proving, by pretty sure implication, that many of those who sit here already, not as individuals but as classes, are therefore unfit for those duties. If, therefore, I admit that we are called upon to give up the exclusively Christian character of the composition of Parliament, yet, in saying that, I perhaps make a larger concession to the opponents of the measure than should in strictness be made, because the only kind of Christian character which this measure requires us to surrender, is one depending on a title not defined except by the feelings of each individual

for and to himself; it is one which implies little more than the most vague, and naked, and generalized acknowledgment. I am quite aware, indeed, that the question as I have now described it, the question whether we shall, under the circumstances of the present time, open the doors of Parliament to Jews, whom we expect to enter them not in mass but only by units; whether we shall dispense in their case with that reference to a Christian profession which, as we now have it, has no relation to any defined standard external to the individual mind; that even this is still a very important question, though it is different from that which we should have to decide if we could rationally anticipate as possible any large number of Jews in Parliament, and still more, from what it would be if the title with which in one sense we are now to part were a title indicating concurrence in a fixed body of revealed truths.

Now I can well believe that to many, and I freely allow that to myself, it is painful thus to part with even the title of an exclusive Christianity, inscribed upon the portals of the constitution. Yet to qualify this title as we are now asked to qualify it, to surrender it as an universal and exclusive title, is not to deprive ourselves of such substantial Christianity as we may really now possess. Advantage is not unfairly taken in debate of a word: but when it is said that we unchristianize the Parliament, while it may be true in name—and I would not deny it—I must ask, is it true in substance? I could not help being struck, and I confess I could not altogether repress a smile, when, with indignation evidently the most unaffected, in an earlier part of this evening, my honourable Friend and Colleague (Sir R. Inglis) rebuked Dr. Van Oven for denying in the pamphlet which he has just published on this question that we were a Christian nation. Dr. Van Oven denies that we are a Christian nation because there are a few Jews in the nation, and my honourable colleague is very angry with him for denying it; and yet what is now proposed is to admit a few Jews into Parliament, all the rest of the body of Parliament remaining Christian; and I am afraid my honourable Colleague would be as much displeased with any one for

asserting the Christianity of Parliament as he was with Dr. Van Oven for denying the Christianity of the nation. Yet the circumstances are exactly parallel. If we are now a Christian nation, we shall even after removing the Disabilities of the Jews be a Christian Parliament: if it be true that we must then cease to be a Christian Parliament, it is also true that we are not now a Christian nation. Sir, I think that Parliament will continue to derive its character mainly from the personal character of those who elect and of those who compose it. And I must say, with regard to the speech of the noble Lord (Lord J. Russell), that when he spoke of oaths and declarations as affording insufficient securities, I certainly did not understand him to signify—and I trust he did not intend—that they were to be looked upon as altogether worthless, and to be discarded from our use, but that we were not to place upon them an exclusive reliance, and that we were to depend more, after all, upon the qualities of men than upon the letter of any regulations we could establish. [“Hear, hear!” from Lord J. Russell.] But I confess I should perceive in this motion a liability to very great and grave objections—indeed, it would even assume in my eyes the character of a practical grievance to us—if I thought that it was the intention of the noble Lord to propose that our position, the position of us who are now exclusively entitled to sit here, should be in any particular altered by the measure which he proposes to introduce. I hope his purpose is, that we shall continue to discharge the very solemn duties committed to our care under the sanction of the very same oaths and declarations which we now take; that we who are Christians shall continue to give the greatest degree of solemnity that is possible to our entrance upon our public functions, by continuing to contract our obligations as now “upon the true faith of a Christian.” I trust that nothing can be more idle than the anticipations of those—I have not heard them mentioned in this debate, but they are current out of doors—the anticipations of those who apprehend that, in consequence of the admission of some two, or three, or four, or six Jews into Parliament, that devout and seemly custom, whereby you, Sir, as our

head and formally appointed representative, and all of our number who are present with you, at the moment when you first enter this House offer up your daily supplications to Almighty God for light and for guidance in our deliberations, is either to be abandoned or its continuance in the slightest degree endangered. I must confess I feel, for one, that if it were so, then this would become a question, not between considerations rather of an abstract character on the one hand, and practical grievance affecting the Jews on the other, but of practical grievance affecting a very small number of Jews on the one hand, and of practical grievance affecting a very large number of Christians—I mean all those who now sit here—on the other.

I have, therefore, endeavoured to show, that the assumptions with regard to the real and constitutional meaning of the law which it is proposed that we should pass, are assumptions not duly founded in the true nature and character of the measure. But there are others who make objections to this measure in language much stronger than my noble Friend. If we have not yet been told, we must prepare to be told out of doors, and probably in this House, that this is an anti-Christian measure, and one which will draw down upon us the judgment of the Almighty. Now, with regard to such arguments, I admit the extreme difficulty of touching them at all, because one cannot deal with them with the reverence which is due to the awful name they seem to invoke against us, and at the same time with the freedom which belongs essentially to our common discussions. But this I do say, that if it be true that civil justice requires the admission of the Jew into Parliament, and if it be untrue that you can show any insuperable difficulty of a practical nature in the work of legislation, or any grievance to any other class of the community, as the consequence of his admission, then this question, so far from being as I think that my honourable Colleague seemed to call it, a question of expediency, is, in the highest sense applicable to a political question, a question of principle as contradistinguished from one of mere expediency; and that in proceeding to render

no more and no less than justice to any class of our fellow-subjects, be they called by what name they may, I can have no fear of drawing down upon our heads the vengeance of the Almighty; nay, on the contrary, I must entertain a very much more serious fear in that respect, if, because of the influence of prejudice on our own minds, or from the apprehension of clamour and the displeasure of others, to which my honourable Friend so emphatically referred, we refrain from doing that which we believe to be right.

But again, Sir, I must proceed to observe, that even if we allow that under certain other circumstances, such an argument could properly find place in the discussion, it is now too late for us to have recourse to it. If the concession of power to the Jews be, which I do not admit, an act involving us in such heavy guilt, we cannot be content with simply alleging this as a plea against the present measure; we must look back upon all which we have already done, and which, it may likewise be observed, no one proposes to undo. Perhaps it is more fit for me than for any other person to invite the House to this retrospect, because I have before urged upon its attention the close and indissoluble connection between the measures which you have already passed for the advantage of the Jew, and the measure which you are now invited to adopt in his favour. In the year 1841, opposing the bill then introduced by the noble Lord (J. Russell) for the admission of Jews to municipal offices, I argued, and I founded my opposition upon the principle, that no broad or clear line could be drawn between their eligibility for what was then in question, and their eligibility for Parliament. And now let us consider how far we are bound by the equitable consequences of what we have already done, or how far it leaves us free to employ the religious argument against the present measure.

My noble Friend draws a distinction between Executive and Legislative functions, and I grant, in certain respects, a just distinction; but at the same time, although in this place we may commonly look upon the name of municipal office without any very lively sentiment of veneration, yet what does it

involve? It involves the magistracy; it involves the performance of judicial duties; it involves the administration of laws which are Christian laws, founded upon and made conformable to the principles of Christianity; and I cannot find a breadth of standing ground for my foot which will enable me on the one hand to say that the Jew is fit for the solemn administration of those laws, and for the administration of Christian oaths to Christian men, and yet upon religious grounds is absolutely unfitted to enter this assembly. But further, the distinction of my noble Friend, though it was drawn with great force and ingenuity, I am of opinion will not sufficiently avail him, even if it be admitted without any restraint. Executive offices, he observes, and even judicial offices, are discharged under the strict observance of the public eye, and any abuse would be corrected by the operation of the power of public opinion; but I must call upon the House to remember that they are not executive offices only to which we have admitted the Jew. What have you to say with regard to the franchise? You refuse to admit the Jew to this House, because they who sit here are the makers of laws; but I ask who are they that make the makers of laws? It is from a periodical return to its mother earth, that this House derives its life and vigour. From thence are drawn the new materials that are to qualify or to replace the old. This House may be the chief organ of power, but is undoubtedly not its fountain; it advises the Crown, it represents the people, and in the constituency must be sought the source of so much of the authority of the State as we possess. But to that constituency, to that primary function of electing, a function not executive, a function the least of all subject to responsibility in the sense of my noble Friend, Jews have already been admitted.

And yet if we are asked whether the constituency of this country be a Christian constituency, I for one am ready to answer yes. It is composed generally of Christians; and no man, as a voter, is in any degree precluded from recognising the command of his Christian principles over him in the de-

termination of his vote, because the Jew stands by his side. If his Christianity be worth any thing at all, he must carry it with him to the hustings ; in discharging his duty there, he must first have asked himself what his obligations to his God and Saviour require of him. I am certain my noble Friend will not argue that the constituency has ceased to be a Christian constituency, because there are here and there a few Jews interspersed through it ; and unless he is prepared to argue thus, I trust that he will share in my consolatory belief that Parliament will not have ceased to be a Christian Parliament, because some few Jews may have been admitted into it. I certainly, after all that we have done for Jews outside the doors of Parliament, and for others within them, am content on the ground of policy, content on the ground of justice, to admit them, and for the future, to trust the Christianity of the Legislature, under God, to the Christianity of the nation.

Again, Sir, my noble Friend proceeded to quote the authority of Dr. Arnold, who entertained a strong opinion against the admission of Jews to Parliament. I cannot wonder that the opponents of the measure should seek support from such a quarter. There were few men who would address their minds to the consideration of any subject with greater energy than Dr. Arnold, or with greater or even equal sincerity of purpose. But I apprehend that his view of this particular question stood related not to the strength of his mind, but to its weakness. Most excellent and most able as he was, yet, like many other men of remarkable and rare ingenuity and of true enthusiasm, he had his own theory which he idolised, which it was the dream of his life to rear into actual existence, and with respect to which no experience could avail to undeceive him. He considered that in a Christian country the State and the Church ought to be regarded as one : the State belonging wholly to the Church, and the Church belonging wholly to the State. He viewed ministers of religion as officers of State, and officers of State as ministers of religion : and he held that there was no distinction between them, except the incidental one of the subject-matter upon which they were respectively

employed. But with this strict idea of the State as Christian, he combined an idea of Christianity relaxed in such a manner that, according to him, certain general truths assumed to be common, and capable of separation from what is peculiar to different Christian persuasions, ought to be embodied in a living and working system. He was indeed perplexed, even in speculation, with certain exceptions which met him at the outset, such as the case of Unitarians on the one side, and of Roman Catholics on the other. Notwithstanding, however, flaws and discouragements such as these, he laboured, as Mr. Stanley has explained to us in that most interesting work, his *Life of Dr. Arnold*, to reduce to form the idea which he had conceived in his mind of a Christianity which should comprehend in one many of the now separated persuasions, and which should then be embodied as a principle, and as a test, in the constitution of the London University. He laboured, as may be easily believed, without success; but likewise, if I remember right, without despair, at least without the abandonment of his views: and his opinion, that the Jews should be excluded from Parliament, was an opinion entertained by him, not with regard to their separate case upon its own merits, but rather, I think, as necessary to the integrity of this favourite, but very peculiar and arbitrary theory. I, therefore, must be allowed to urge, that the weight of Dr. Arnold's opinion in this case must be measured by the practicability of this particular idea, and not by the authority generally belonging to his judgment, that is to say, upon questions where he had no special bias or notion to mislead him.

There is, however, another point in the argument to which I must return, as I have only noticed it hitherto in general terms: whereas its bearing upon the present question is, in my view, of the very highest importance.

It is alleged that we are now going to make a change in the constitution which involves the essence of Christianity: that what the constitution hitherto has required of us is not merely that we should denominate ourselves Christians, but should make our solemn declaration "upon the true faith of

a Christian;" thus implying that each of those who so declare really embraces that faith, and that, therefore, according to the view of the constitution, all members of Parliament are agreed in the recognition of a fixed body of revealed doctrine, distinctly indicated by those words. From the mere words as they stand, I at once admit, it is by no means evident that they were intended to include all persons that could simply call themselves Christians; nay, that they were not so intended, and did not include all such persons. But we must read the sense which the declaration now bears, in the light of subsequent history; we must observe what successive Parliaments have done, in order to adapt the law to the altering circumstances of successive periods, and must give to their measures their full breadth of meaning. After Non-conformity had taken a definite shape in this country, it obtained a legal toleration; Nonconformists entered into Parliament, by a sufferance which gradually came to be all but a right, and which received full constitutional sanction as a right in the year 1828. Among those Nonconformists, almost from the first, there were Unitarians. True they had their whole civil existence for a long time by sufferance; only by slow degrees they too obtained a recognition; and I apprehend that from the year 1813 the law ceased, as practice had long before ceased, to draw any distinction between them personally and other Dissenters. I say personally, not entering into the inquiry what view the law may even now be thought to take of their creed, as distinct from the persons professing it. Now, Sir, as these concessions were not extorted by fraud, or surprise, or force, but were granted one after another by Parliament, with its eyes open to their significance and their consequences, I cannot lay it as a charge against the conscience of the Unitarian, that he uses, in reference to his belief, the words which we too use at that table with regard to ours. Whatever may have been their original view and meaning, I think myself bound most unreservedly to admit, that Unitarians act according to the spirit and the intention of our laws, when they adopt those

expressions for themselves, as applicable in their mouths to their own religious system. But if, as I think, the constitution, so to speak, is satisfied with the sense in which they are thus employed, then I conceive we cannot dispute that it has altogether ceased to require of us the recognition of any fixed standard or body of Christian truths as an indispensable element of fitness for legislative duties; that we are not now tied by it to hold any thing which can in serious reflection be called by us unitedly "the true faith of a Christian;" and that therefore the measure of the noble Lord at the head of the Government is not open to the objection which would lie against it, if it could really be shown, that, in order to meet a case of limited extent, we were about to make a great substantial change in the religious character of the constitution, and in the capacity of the great mass of those who act under it.

Passing on, Sir, from the objections which I think either unreal or at best inapplicable, I now come to one of which I admit the reality and the relevancy, though I do not admit its sufficiency to warrant the rejection of this proposal. I hope the House will bear with me while I touch for a short time upon a topic, in my view of very great importance, of which no notice has as yet been taken in this debate. I am most reluctant to introduce into it any element that can even appear to be foreign to its scope, or not remotely connected with it; but I am certain of the general assent of those who hear me when I say that, as being sent here jointly with my honourable Friend and colleague (Sir R. H. Inglis) to represent an University, to represent a constituency so much connected with the national Church and comprising so large a number of its ministers, I should betray my most especial and solemn duty, were I to give my assent to this measure without having endeavoured to consider very maturely its whole bearings upon the interests of that Church; I will add, without having satisfied my mind that its adoption ought not to work them injury.

I say then, Sir, that there is at least one real difficulty attending the admission of the Jews into Parliament; that

which arises from the mixed nature of the functions we are brought here to discharge. So long as many matters relating to the Church, and some also relating to the Christian religion in a more general sense, are liable to be discussed and decided here,—so long as we continue to bear the character of political guardians of the Church,—there is, as far as these facts extend, a real and practical difficulty attending the admission of Jews to Parliament. This being granted, I must ask myself what is the amount of that difficulty, and are there any means by which it can be obviated, short of that extreme resort, the rejection of this measure?

And first, as to the amount of the difficulty, I confess that I have not any great apprehension of practical evils to arise from the actual interference of professors of the Jewish religion in such legislation as may directly or indirectly have to do with ours. Because I know that, in the first place, the good feeling of each individual as a judge of what is becoming or otherwise, for himself; and, in the next place, the influence of public opinion operating both within and without these walls, will do much to restrain any interposition in matters relating to the Church on the part of those who, on account of religious differences, can have no natural and sufficient interest in them. We have seen that feeling operate not unfrequently in this House since the Acts of 1828 and 1829. When a question of the internal affairs of the Church is under consideration here, it is not an uncommon thing to hear Gentlemen, who do not belong to her communion, say, that they do not look upon it as a matter for them to be concerned in, and that they think it more becoming to leave the discussion to those who may be supposed to feel a religious and an appropriate interest in it as members of the Church. And many act upon a rule of this kind without the formal expression of it. If this has been the case heretofore among us, constituted as we now are, it is reasonable to expect that it will be still more the practice if Jews should come to sit among us. While, therefore, I do not deny that a practical anomaly or difficulty presents itself, I also think that considerations of

the class which I have mentioned go a great way to diminish and reduce it.

But at any rate I must look at the alternative; and, with the views I entertain of the strength of the political claim of the Jew, I find a much greater practical anomaly and difficulty to follow upon holding such language as this—that after all which has taken place, I will, because a certain portion of the duties of Parliament are directly related to the Christian religion, exclude the Jew from the performance of all those among its duties which are in their first aspect secular and civil. I am by no means of the opinion that differences of religion have no bearing upon the discharge of political duties of whatever class: I do not hold that all men, whatever their religious creeds, are equally qualified for those duties: I look upon a right religious belief as among the elements of competency for them. But this is in itself a question of degree, and as such the constitution regards it, because it has already recognised a sufficient competency in persons of various creeds for the duties of Parliament and of all offices; and also the competency of the Jew for every civil duty and privilege, except only seats in Parliament, and the holding of certain offices. Such then being the case, I have the utmost reluctance, upon the sole ground that the functions of Parliament are sometimes conversant with matters of religion, to exclude the Jew from any share in all those other functions that belong to the Legislature, and with which it is principally occupied; such as relate to taxation and finance, to trade and industry, to the defence of the country, to the administration of justice, to humanity and philanthropy, to the redress of grievances, to external and colonial relations, and to all the multitude of subjects, defying complete classification, that are brought before us from time to time.

But still, Sir, the question, as I have endeavoured to limit its practical bearings, the question how, under the successive changes already introduced, or likely to be introduced, in the religious composition of this House, the relations of the Church to the State are to be governed, is one which excites

a great and increasing interest, a deep and just anxiety, among the clergy and the members of the Church of England.

In illustration of what I have said, I may refer to a published letter which I have recently seen, addressed to the noble Lord, by the Rev. Mr. Trevor, a clergyman, I believe, of known abilities, and of no less indisputable moderation, who nevertheless it is evident feels keenly, as he also writes warmly, upon the difficulties in which the Church, and the clergy in particular, are placed under a course of legislation which successively infuses into the composition of Parliament new elements, having no sympathy with that body, and in no relations towards them, such as those which are created by identity of religious communion. I have a more recent result and token of this sentiment among the clergy, in my hand, in the shape of a petition*, which has been forwarded to me for presentation to this House by a dignitary of the Church, a person of high character, and of distinguished talents—I mean Archdeacon Wilberforce, whose brother occupies a yet higher station as Bishop of Oxford. In this petition, Archdeacon Wilberforce takes a summary view of the altered position of the Church in regard to the Legislature and to the expectations she may naturally entertain from it; and then he comes to the further alteration, which, as he had understood, the noble Lord opposite was to propose. He says that in the present state of public opinion, and having regard to all that has already been done, he is not prepared, whatever his own sentiments or predilections as an individual might be, to offer objection to the removal of the Jewish Disabilities: but then he prays that before we take this new step onwards in the career which we have now for a long time been pursuing, we will pass a Bill for the repeal of the Statute of the 28th year of Henry VIII. chap. 17, relating to the election of bishops, inasmuch as he conceives that Parliament will, in consequence of

* I might also have referred to a recent pamphlet, very worthy of notice, entitled "A Clergyman's Apology for Favouring the Removal of the Jewish Disabilities."

such a measure as that now before us, cease to be a Christian Legislature. Now, Sir, it will have appeared from all that I have said, that I do not take the same view of the character and effects of this particular measure as Archdeacon Wilberforce: neither do I think that the anomaly which he points out, is one that we ought now to proceed to remove by the repeal of that statute of Henry VIII. But I perceive the difficulty: and although I am reluctant to entertain the idea of meeting it in such a mode as the particular mode which he suggests, yet I refer to his petition as illustrating a sentiment which is widely spread, and which may spread yet more widely.

Indeed, for myself, I cannot hesitate to say, that from the general course of events, and in particular from the changes which have been introduced, and which are now proposed in the constitution of the Legislature, a very great degree, an increased degree of delicacy and caution has become necessary in the management of its relations with the Church, and that the want of that delicacy and caution, and of kindly and considerate feeling, would in all probability lead to very serious ulterior consequences; I mean that it would have the effect of producing throughout the country, among the clergy, and among all the more seriously attached members of the Church, a desire for what is termed organic change in the connection between the Church and the State. I use the phrase organic change to distinguish what I now have in view, from changes not cutting so deep, from practical and administrative improvements. Now I do not know whether there are any persons in this House—if so, they must be few and probably of extreme opinions—who contemplate and desire such organic change in the connection between Church and State. If there be such, I am not one of them: I am deeply anxious to obviate any demand for changes of that nature. Yet I feel that there is a great difficulty, pressing seriously upon the consciences both of lay members of the Church and of clergy, from their becoming more and more alive to a want of active sympathy between the Parliament and the Church, and to the slow and unsatisfactory mode in

which the internal affairs of the Church are apt to be despatched amidst the pressure of our other engagements. The solution of this difficulty, which I should greatly prefer, is as follows: and in what I am about to say, I beg most frankly to assure the noble Lord opposite, that I desire to convey no allusion to current events, for if I thought it right to introduce on this occasion any reference to them, I should not merely insinuate an opinion, but should state directly and broadly whatever I might have to urge: this, then, is what I desire, in the interest of my constituents, and in the interest of the Church, that as you continue from time to time to admit among you those who cannot justly be expected to have sympathy with the laws and the spiritual purposes of the Church, you should likewise recognise and act upon the principle, that a consideration for the clergy and the other members of the Church as such, a disposition to attach weight to their feelings and views, a regard to them as a body, having like the members of other religious bodies conscientious convictions, and entitled to have those convictions respected, should influence Parliament in the exercise of its legislative powers as they bear upon the affairs of the Church, and should also influence the Ministers of the Crown in the exercise of those very important executive powers of patronage or otherwise, which fall to them in that capacity. I think myself entitled to believe, that Parliament is disinclined to extreme views, of whatever kind, in regard to the affairs of the Church. A time might possibly arrive when it might be otherwise. If there should be any rapid or violent movement of the popular mind, or in some season of temporary excitement—however improbable such contingencies may justly be considered—a majority of this House might possibly be disposed to pursue a severe and hostile policy towards the Church, and might also incline the Minister of the Crown to act in a similar spirit. I cannot but express it as my most solemn conviction, that the adoption of any jealous, aggressive or coercive policy of that kind towards the Church would be attended with the most deplorable results. Through-

out a great part of the last century, there was, not indeed an active or violent antagonism, but a fundamental want of harmony between our civil and our ecclesiastical institutions ; political influence went one way, and the dispositions of the clergy, and of most persons who were zealous in the religion of the Church, the other. What was the consequence ? It was a total relaxation of discipline ; the ties of affection which should unite bishops with their clergy, and pastors with their flocks, became more and more feeble ; there was a rapid and perpetual decline of religious activity ; and the scandals of the Church (which of course are not to be regarded as those of the clergy alone) became at length gross and notorious through the Christian world. When the French Revolution burst like a clap of thunder on Europe, then there began among the higher classes, as venerable witnesses, now and lately alive, have assured some among us, a revival of religious feeling. But shortly before that Revolution, the whole relations of the Church and the people appeared to be rapidly sinking into the condition of a mere form ; they were too generally reduced to a skeleton of dry bones, without life, or heat, or movement ; there were no warm and living bonds of love and of duty such as ought to connect a Christian people with their ministry. If Parliament were to be governed by a spirit of hostility and of jealousy to the Church, it might in certain periods produce again results like these. In a generation already verging towards indifference, it might plunge the Church more deeply into lethargy ; for, in this free country, with the laws, tempers, and habits which happily prevail, you cannot make any class or body of men, be they clergymen, or be they laymen of whatever kind, discharge their duties cordially or efficaciously by measures of restriction and coercion, or by the mere exercise of authority. Especially in regard to the Church, from the very nature of its office, which depends so essentially on the affections of the people, you must infuse a genial and a kindly spirit into all your proceedings, unless you are prepared to take upon yourselves the re-

sponsibility of one or the other of two tremendous evils ; either the evil which I have named, of paralysing all spiritual energies in an age of indifference, or in an age of religious warmth and excitement, and of rising faith within the Church, such as this, the evil of exasperating those energies, and of causing convulsions which might ultimately prove almost as detrimental to the civil as to the ecclesiastical institutions of the country. If, therefore, we desire to see what is called a working or an efficient Church ; a clergy that will toil without remission until it has covered the whole space, now unhappily void, amongst the people with the life-giving ordinances of our religion, acting with zeal and love, as well as with a true moderation, in the spirit of that system of faith and discipline under which they are appointed to work ; we cannot contribute to this purpose, though we may defeat it, by a policy of jealousy and repression ; we may contribute towards it, if the duties of the State in Church affairs be discharged in a wise and considerate, I will say also in a genial and friendly, and something of a confiding temper. Such, then, is the mode in which, as it appears to me, it would not be difficult to provide sufficiently against the embarrassments which might otherwise arise out of the successive infusion of many new and alien ingredients into the composition of the Legislature. But I should think it a very great misfortune indeed, if there were no other mode of avoiding those embarrassments than to reject a measure like this, which has civil privileges for its subject matter, and to announce to the Jew that, on account of the partially religious or ecclesiastical duties of Parliament, we shall now, after all we have done in relieving different classes from disability, and recognising their fitness for admission here, after all we have done for him in conferring upon him such functions as those of the magistracy and the franchise, apply as against him the exclusive rule in a manner, as I think, so partial and unequal, and take our stand upon a ground so very narrow as that lying between what we have already given, and what we are now asked to give. The opposition to this measure, in order to de-

serve respect, must be placed upon the ground of religion ; but it could only attract respect, when placed upon that ground, if it could be shown that there is breadth in our distinctions, that there is some consistency in our policy, that our rules are impartially applied ; conditions none of which I am able to realise in any opposition that can now be offered to the Motion of the noble Lord.

Upon a general view, then, of the case, I cannot but feel that my noble Friend has misconceived the purport of this measure in its bearing on the religious character of the constitution, and has therefore greatly overrated as well as misjudged its effects. I am unable to detect any practical evil or inconvenience likely to flow from it, in any degree equal to the evils that would follow its rejection upon grounds that I take to be not only insufficient, but even false and dangerous. I rate highly the position of the Jews in the State, and I find their competency for civil duties asserted in the very largest terms, by one whose strenuous opposition to their claim does but add to the cogency of the witness he has borne in their favour. I cannot, then, but close with the appeal which the noble Lord opposite has made to us, and admit that in the measure he has proposed he is himself aspiring, and is inviting us to perform an act of justice. But if it be such, then it is one worthy of a Christian legislature to enact, for Christianity recognises no higher, no more comprehensive obligation. If we refuse it, I conceive that the wrong which on civil grounds we shall have done will be more acutely felt, and more pointedly shown, from year to year : if we adopt it, in spite of the prepossessions of others, and perhaps of our own, we shall have the consolation of finding that calm reflection will surely and speedily prevail. We shall have the consolation of believing that we have used the light that has been given us not heedlessly, but to the best of our care and judgment, and having so done, may entertain the hope that it will guide us aright. Especially we may feel assured, that if the act we have done be indeed an act of civil and social justice, then,

whatever be its first aspect, it can involve no disparagement to the religion we profess, can never lower Christianity, as my noble Friend has feared it would, in the public estimation, but must, on the contrary, tend to elevate the conception of Christianity in all considerate minds; for it will show either now, or at farthest when some years have passed, and when we can look back upon the differences of the present day with the aid of those lights which after events and experience will have thrown upon them, that the Christian religion, which we professed, was a religion that enabled us, when convinced, to do an act of justice in spite of prepossessions appealing to our liveliest and tenderest feelings; prepossessions which still attracted our sympathy and respect, almost our veneration; in the full belief that truth and right would vindicate themselves, and those who had desired to follow them.

THE END.

REPLY

TO THE

ARGUMENTS ADVANCED AGAINST THE REMOVAL

OF THE REMAINING

DISABILITIES OF THE JEWS.

BY

FRANCIS HENRY GOLDSMID,

OF LINCOLN'S INN, BARRISTER.

. unam minimamque relinque,
De multis minimam posco, clamavit, et unam.

Spare yet the least, she cried, (the rest is past,)
Of all I loved, O spare the least and last!

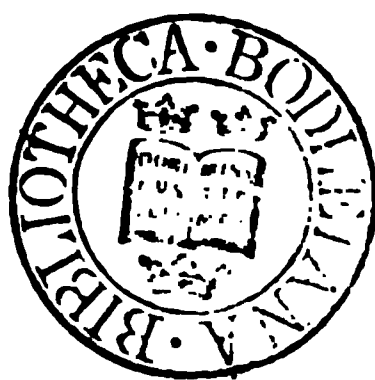
Tale of Niobe in Ovid's Metamorphoses.

L O N D O N :

JOHN MURRAY, ALBEMARLE STREET.

1848.

**PRINTED BY RICHARD AND JOHN E. TAYLOR,
RED LION COURT, FLEET STREET.**



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1783

REPLY

TO

THE ARGUMENTS,

&c.

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### INTRODUCTORY OBSERVATIONS.

WHEN no class of Englishmen save the Jews are subjected to civil disabilities on account of their religious opinions,—when this excepted class are freed, either by the permanent law or by the operation of the annual Act of Indemnity, from all disabilities save one,—when Jews as jurymen have a voice in deciding,—when their duty may require them in judicial capacities to decide, on the life or death of their fellow-citizens,—when the peace of a city or county may be found in troubled times to depend mainly on the firmness and judgment dis-

played by a Jewish magistrate,—when as electors the Jews have a share in choosing those who make the laws ;—are they still to be excluded, even if elected by a constituency consisting wholly or principally of Christians, from taking a direct part in the business of legislation? Is this glaring incongruity, this single remaining stone of the old fabric of disqualifying laws, to be preserved, not as a part (*that* it can no longer be) of an existing system, but as a relic and a memorial of a system that has passed away?

It might have been thought that such a question would irresistibly suggest an unanimous answer in the negative. But since it appears that there are still reasoning minds which can dispute the propriety of this answer, I propose shortly to show by what process we have arrived at so anomalous a state of things, and to point out the fallacy of the principal arguments which are alleged for its continuance.

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Down to the year 1828 every person in the United Kingdom, not being a member of the Established Church, was liable to disabilities of greater or less extent by reason of his religious belief. One of the two principal bodies of dissidents, that of Protestant Dissenters, was legally excluded

by the sacramental test from offices under the Crown and in municipal corporations, although they occasionally made their way into such offices under the protection of the annual Indemnity Act. The Roman Catholics were by the operation of various tests shut out from municipal corporations, from offices under Government and from Parliament.

By the Statutes passed in 1828\* and 1829† for the repeal of the Test and Corporation Acts, and for the relief of the Roman Catholics, these restrictions were almost entirely removed‡. That which had been the rule became the exception. The only classes who found themselves excluded from the benefit of the general principle introduced by the new laws, that religious opinion was not to be a ground for civil disqualification, were the Jews and those sects of Protestant Dissenters who object to the taking of oaths.

These remaining exclusions appeared to have been the work of accident rather than of design. The legal position of the Jews in particular was a most singular one. The source of their disqualifi-

\* 9 Geo. IV. c. 17.

† 10 Geo. IV. c. 7.

‡ I have not thought it necessary to refer in the text to the exception of three particular offices in the Catholic Relief Act, which exception is considered as resting on the special ground of the connection of those offices with the Protestant Church.



cations was simply the words “ upon the true faith of a Christian,” contained in the Abjuration Oath and in the Declaration substituted by the law of 1828 for the sacramental test. But the mischiefs which this phrase inflicted on the Jews were many. Its presence in the Abjuration Oath disabled them from sitting in Parliament, and might, if the oath were tendered at a parliamentary election, be made to deprive them of the franchise. They were obstructed by the same Oath in the practice of the legal profession, by the Declaration of 1828 in entering upon corporate offices, and by both Oath and Declaration in holding offices under the Crown, unless so far as they were protected by the annual Act of Indemnity.

Now the Oath of Abjuration, the principal instrument of these exclusions, was originally enacted without the slightest reference to the Jews. It was introduced at the beginning of the eighteenth century in order to secure the House of Hanover from the abettors of the Pretender. The Catholics (then a disaffected class) were the only religious body against whom it could be considered as having been directed. The words “ upon the true faith of a Christian ” were not part of the substance of the oath, but were simply an emphatic form of assevera-

tion. Long before 1829 the Pretender had ceased to be. The Act of that year substituted another oath to be taken by the Catholics. And yet, when the original purpose of the Abjuration Oath had altogether passed away, when those against whom it had been intended to guard were withdrawn from its operation, the oath itself was retained without any apparent object, and with no other result than that of imposing, by means of its form and not of its substance, disabilities upon a class against whom its framers had never designed it to operate. The rule that when the cause ceases the effect also will cease, had no application here.

So also with respect to the Declaration of 1828, the words “upon the true faith of a Christian” were part of its form, but not of its substance; and no part of the statute which contains them shows that they were designed to exclude the Jews.

These were among the considerations which, after the passing of the Catholic Relief Act in 1829, led the Jewish community, and those who took an interest in their cause, to anticipate that as soon as the fortuitous effect of tests never directed against *them* should be pointed out, this accidental anomaly would be remedied, and that they would be admitted to the benefit of the principle clearly enunciated by

the advocates of the Act just referred to, that difference of creed was no longer to be made a ground for civil disqualification.

In the next session accordingly a statesman equally remarkable for intelligence and for deep religious feeling (the late Mr. Robert Grant\*), brought forward a Bill for carrying these views into effect. But they were not to be immediately realized. Those who had opposed to the last the Acts of 1828 and 1829, and who, when they were passed, appear to have supposed that disqualifications on account of religion were at an end, were now delighted to find that there were still such disqualifications to be fought for. The Ministry were not prepared at once to complete the work which had been so well begun, and Mr. Grant's Bill for removing the disabilities of the Jews, after its first reading had been carried by eighteen votes, was rejected at the next stage by a considerable majority. During the next two years the public attention was almost exclusively occupied by Parliamentary Reform. In 1833 Mr. Grant again brought forward his Bill ; it was most ably and eloquently supported, and was carried by overwhelming majorities through the House of

\* Afterwards Sir Robert Grant, Governor of Bombay.

Commons, but was rejected by the Peers, between whom and the Lower House there existed for some years after the passing of the Reform Act a more marked difference of opinion than had long been known or is likely soon to recur. In 1834 and 1836 a measure for the removal of the Jewish disabilities was again brought forward, but with a similar result.

It was not likely that the question would rest here, while the whole course of opinion and of legislation was tending towards the entire removal of civil distinctions on account of religion.

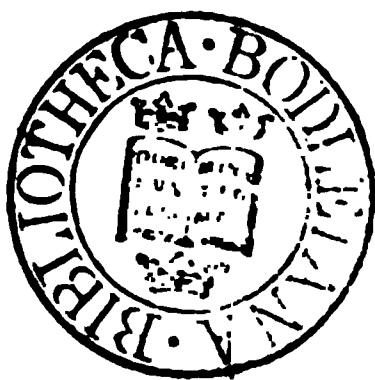
By Acts passed in 1833, 1837 and 1838 \*, those sects of Dissenters who object to the taking of oaths were relieved from the disqualifications to which they had been liable.

The establishment of University College and of the University of London had laid open to all classes the career of academic distinction, a career which the Jews were not slow to enter with zeal and success.

My call to the bar, (which has been followed by that of several other persons of the same faith,) proved that without any alteration of the law, Jews

\* 3 & 4 Wm. IV. c. 49. 1 & 2 Vic. c. 5 and 15.

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**C O N T E N T S.**

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**Reply to the Objections—**

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| <b>That the Jews are in constant expectation of their<br/>return to Palestine, that they regard themselves<br/>as a separate nation, and that their Religion<br/>forbids their political identification with the State<br/>of which they are natives . . . . .</b> | <b>19</b> |
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**Reply to the Objections—**

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| <b>That this is a Christian nation and ought therefore<br/>to have a Christian Legislature, that the removal<br/>of the remaining disabilities of the Jews would<br/>destroy the ancient Christian character of the<br/>constitution of the country, and that such a<br/>measure would be an evidence of disrespect to<br/>Christianity . . . . .</b> | <b>38</b> |
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come more real, may be rendered more strikingly apparent, when the feeling of an important constituency is proved to be adverse to the existing law. Of such a demonstration the liberal party in the City of London resolved to afford the aid to the next effort which might be made for the removal of the remaining disabilities of the Jews. They accordingly brought forward and returned as one of the representatives of that city, a candidate of the Jewish faith.

Lord John Russell, not (as he explained to the House of Commons) in *consequence* of this election, but on the *occasion* of this election, has proposed to Parliament a Bill, which he would in any event have proposed at the first fitting opportunity, for the alteration of that accidental and anomalous state of the law which shuts out the Jews from the Legislature. He has been supported by the leading statesmen of all parties. But those who believe in the utility of a modified persecution cannot yet bear to part calmly with the last disability of any importance which they find on the statute-book. They accumulate on this one law the affection which they formerly divided among a goodly family of penal and disabling enactments. Like Niobe in the fable, when she

begs the life of the last of her children, they make one sad remonstrance more before their regret shall grow for ever dumb.

“ Spare yet the least, she cried (the rest is past),  
Of all I loved, O, spare the least and last.”

To those who like myself have watched with anxiety from their commencement the discussions on the removal of the disabilities of the Jews, it is interesting to observe that the arguments alleged by the opponents of the measure have grown gradually fewer.

The strange assertion that the Jews themselves were indifferent to enfranchisement, has been refuted by their repeated efforts to obtain it, and is, I believe, abandoned.

The idea that the Jews were naturally better fitted for trade than for intellectual pursuits, has also yielded to the force of truth.

The limited experience arising from the recent and partial removal, in law and practice, of the restrictions that affected the Jewish community here, appears to have taught those who resist our demands what they might have previously learnt from the more extensive experience of other ages and countries, that no inferiority in mental power



or in love for elevating pursuits is justly attributable to the sons of Israel.

To the removal of all prejudice on this head powerful aid has been rendered by an eloquent writer, of our blood though not of our creed, who scorning the course which men of less genius and generosity have often taken, scorning to malign the race from which he has sprung, merely because he does not share their faith, has ably and successfully vindicated our claims to intellectual eminence.

But this eminence is not merely asserted for us by our supporters, it is proclaimed by the ablest among their antagonists.

I desire not to claim so much as this. I ask only that it may be admitted that whenever and wherever the Jews have not been shut out from art, from science, from the service of the State, they have been as ready and as able as other men to devote themselves successfully to those high objects. I ask only that it may be admitted that if at any time mental or moral inferiority have been justly attributable to the Hebrews, the blame should be cast, not on them, but in early times on the persecutions that drove them from country to country, and in more modern ages on the restric-

tions which have excluded them from places of instruction, from learned professions, from the rights and the loftier duties of citizenship.

All this is now, I think, scarcely denied, at least by our leading opponents in Parliament.

The only objections against Lord John Russell's Bill that seem still to excite any considerable attention, may be classed under two heads.

It is alleged (though even these allegations are made with much less positiveness than they were formerly) that the Jews are a separate nation, constantly looking to their return to Palestine, and that there is something in their religion which forbids their complete political identification with the country in which they were born and bred.

It is asserted that this is a Christian nation, and ought therefore to have a Christian legislature, that Christianity is a part of the ancient constitution of the country, that this ancient Christian character of the constitution would be destroyed by the measure proposed, and that respect for Christianity is shown by requiring all the members of the legislature to declare their adherence to that religion.

The purpose of the following pages is to reply to these objections, either by restating the answers

formerly given to them, where the objections themselves are mere repetitions of those previously made, and, as I believe, refuted; or, where the objections have anything of novelty, by showing that they are equally unsubstantial with their predecessors.

**REPLY TO THE OBJECTIONS THAT THE JEWS ARE  
IN CONSTANT EXPECTATION OF THEIR RETURN  
TO PALESTINE, THAT THEY REGARD THEM-  
SELVES AS A SEPARATE NATION, AND THAT  
THEIR RELIGION FORBIDS THEIR POLITICAL  
IDENTIFICATION WITH THE STATE OF WHICH  
THEY ARE NATIVES.**

It is asserted that the sons of Israel regard the coming of the Messiah and their restoration to the promised land as certain events, which may at any moment dissolve their relations with the various countries through which they are dispersed ; and that this anticipation must lead the English Jews (if they be taken as an example) to consider themselves as mere sojourners in their birth-place ; must deprive them of all motives for firm attachment to England ; and make them incapable of the feelings, and therefore unworthy of the rights and privileges of Englishmen.

Now, it is undoubtedly true that the Jews regard

the coming of the Messiah and their own restoration to the promised land as certain events. But the inference that this anticipation renders them incapable of love for their native land, or unfit to serve it, is disproved, as I shall presently have occasion to state more at length, by the experience of every age and country in which the writers of their history have informed us that they have been *treated* like citizens ; or rather, in which these writers have recorded their existence, without recording their sufferings under persecution.

And here my answer to the *first* objection, and indeed to all others that are derived from the peculiar tenets of the Jews, might end ; for the effects which theory points out as necessarily resulting, but which practice shows never to result, from particular opinions, can scarcely deserve much attention from legislators. Let us, however, further see whether we may not arrive at the conclusion, that the inference adverted to is false, even without the aid of experience ; and for this purpose let us again take England as our example.

The most general, rational, and powerful of the causes which inspire an Englishman with love for his country, and sympathy in its interests and glory, are early associations ; and the reflection, that in

it those whom he loves are found ; that its laws protect him and them ; and that its institutions afford to him a large proportion of those liberties and franchises, of which his enjoyment is consistent with good government and social order. Now all these causes, except one, operate as powerfully on an English Jew as on other Englishmen. He too is bound by early recollections to his country ; it contains those who are dear to him ; its government protects him and them ; and if its laws refuse to him some of those franchises and privileges which their other subjects possess, they leave him at least the confident hope of altering in this respect his situation. All motives, therefore, except that which springs from the consciousness of political liberty, the Jew already shares with those who surround him.

Surely, then, he has ground to complain of the endeavours made to persuade his fellow-citizens that all these motives are rendered powerless, because his religion teaches him to anticipate that a miraculous change, which will put an end to the connexion of his race with England, will at some period during the existence of the world occur. But, it will be said, you admit yourselves your belief, that every instant *may* terminate your interest

in the welfare of your native land. And do we then differ in this respect from men of other creeds? Many Christians, I imagine, look forward to a second advent of the Messiah, as to an event on the happening of which all distinctions of states and nations will be forgotten throughout the globe; or at least the aggrandizement of any particular nation can no longer be an object of the wishes of any reasonable being. All Christians, as I believe, are convinced that the human race itself must one day cease to be. And all, certainly, of whatever creed, expect the close, which may arrive during the passing hour, and cannot be deferred many years, of their mortal existence. Now every one of these events—death, the extinction of the human species, and the commencement of a Millennium—will, when it shall occur, render unimportant to each citizen the advantage of his country, or his own individual prosperity; and therefore, the same process of reasoning by which it is attempted to prove that the Jews want patriotism, would lead to the inference, that men by whom any one of these events is anticipated, must of necessity be indifferent to all temporal things, and unfit to be entrusted with the direction of them.

And yet it has not been found in practice, that

the predictions of religion, or the conclusions of reason, have made the inhabitants of this or of any other land culpably inattentive to their public or private welfare. Nor is it difficult to perceive the cause. Reason and Christianity, whilst they point to different changes, which will convert all that interests us *now* and *here* into matters of no moment, either wholly or in part omit to assign to those changes their respective periods, and thus make the prospect of them utterly incapable to destroy the force of the motives, always present and always active, that urge men to desire their own prosperity, and that of the state to which they belong.

Just so it is with the Jews. The Jewish religion also teaches ideas of the future, which might possibly, if she declared the moment of their fulfilment to be fixed and at hand, tend to quench in the minds of her votaries the love of country; but which have not, and cannot have, any such effect, because she leaves the period when her predictions shall be accomplished wholly indefinite—because the devout Jew has no greater reason for supposing that the re-establishment of his race in Palestine will take place during the next twenty, than that it will be delayed to the end of the next one thousand years.



No! there is nothing in the religious expectations of the Hebrews that can diminish their attachment to their native country; there is no circumstance that can cause the Jews of England to feel that attachment less strongly than their fellow-citizens:—none, except the existence of the disabling statutes, which make them, if not actually, yet by comparison, a class degraded by law amidst a nation of freemen.

But it is further said that the Jewish faith condemns any desire on the part of the Hebrews to promote the happiness of their native country, teaches them to regard themselves as a separate nation, and pronounces impious all efforts on their part to advance the welfare of any other state than future Palestine.

Now it is true that the Jews still occasionally assume the denomination of a separate people, which Scripture in ancient times more appropriately bestowed upon them. But it is only necessary to examine, with a little attention, the sense in which the phrase alluded to is really employed by them, in order to be satisfied that the use of it implies no opinion, which can render them less worthy of the privileges of British subjects. When the term is applied to the past or to the future, its signification

is obvious. Applied to the past, it recalls the fact, that they formed of old a separate state, distinct from the Pagan tribes by which they were surrounded, in the Holy Land. Applied to the future, it denotes their belief that they will be again miraculously re-established as a nation. But has the phrase, which it is justly said that the Jews sometimes employ, any *present* meaning? Does it signify that they have *now* any national existence? that, although scattered through various lands in every part of the world, so that those of one place are often ignorant of the very being of their co-religionists in the remotest quarter of the globe, they do nevertheless *at this moment* form one great political whole?

No religion can force men, and certainly the religion of the Jews does not require them, to give credence to any thing which, like this, is directly contrary to known and simple fact

The Jews are assured that they have been, and will again be, a nation. That their anticipations of the future do not unfit them for the duties of citizens, I trust I have already shown. That their belief in facts recorded by Scripture can have no such effect will, I suppose, be admitted. To no other things than these, can the appellation of a

*nation*, which is sometimes assumed by them, refer. They do not, as seems to have been imagined, they cannot, believe, that they have now any political existence or political interest distinct from those of the country in which they live. It is impossible to understand the nature, the meaning, of such an existence or such an interest. And yet positive proof that the Jews entertain the belief ascribed to them, could alone excuse the exclusions, for which the unfounded imputation of that belief is pleaded as a sufficient apology.

But again, it is objected that the religion of the Jews declares, that it is in them absolute impiety to unite themselves as citizens with the state in which they live, and to make its welfare an object of their exertions. To this assertion I shall oppose a positive denial, that any such doctrines as these are comprised in the Jewish faith. If they are indeed comprised in it, where are they to be found? The Jews disclaim them. Among the almost innumerable passages of Scripture which foretel our dispersion, I am not aware that *any* are to be found, which direct us to avoid political identification with the people among which we may be placed, or to shrink from performing *one* of the duties of faithful subjects. And further, if it be

supposed that the pious Jew, instead of being satisfied, as in truth he would be, with the absence of any doctrines condemning the desire to be useful to his country, should anxiously seek some further token, from which he might infer that his religion sanctioned so natural a feeling, before he ventured to indulge it ; I do not perceive that he could rely upon any higher authority than the conduct of the Prophets during the first captivity. And this will teach him that to serve the state and government which protect him, is a duty, not a crime : for Jeremiah more than once enjoined cheerful submission to Babylon ; and Nehemiah and Daniel were ministers and servants of Babylonian and Persian kings.

But without further resorting to biblical times, or longer considering what (if we had no experience to guide us) we might suppose likely to be the result of the tenets of the Hebrew, let us see what *has been* their result. Let us advert to the state of the Jews in different countries where, during the last ten centuries, their belief has not been made a matter of punishment.

In Spain under the Moors ; in the United States since their establishment ; in France and Holland during the last forty years ; in some of the British

Colonies since 1830, there has been permitted to the members of the Jewish community the free exercise of their energies. In all these places the result has been precisely such as every unprejudiced man would have anticipated.

When the Moorish dynasty was established in Spain, the Jews, who were very numerous in that country, and who had previously been reduced to that state of degradation, in which they have usually been found in Christian Europe, were admitted to equal privileges with the Moors themselves. Would you know the consequence? Ask those who desire to represent the Jews as necessarily unfit to promote the welfare of their native land: and you will be told that such a measure, though it might *nominally* alter the situation of the Hebrews, must have left them practically in their ordinary condition, strangers for the most part to elevating pursuits, and entirely strangers to the service of the State. Ask History, and *She* will tell you, that the Jews of Spain employed their talents equally with their fellow-citizens for the advantage of their country, that they rose to high stations in its camps and councils, that more than one sovereign chose ministers from among them, and that they might at the same time boast of

names illustrious for acquirements in letters and philosophy. My readers will not, I trust, be reminded without pity and regret, that after the restoration of Christian kings to the sovereignty of Spain (although some of these kings were themselves ably and faithfully served by their Jewish subjects), yet the lot of a body of men thus worthy of protection, was gradually changed from religious liberty to thralldom, and from thralldom to exile.

After noticing the exception which I have just described, to the rule of persecution, we pass through an interval of six centuries, and cross the Atlantic, before we again find a place and a period in which political rights have been conceded to the Jews. But whether in Spain or in North America, in the twelfth or in the eighteenth century, there was no cause to doubt that freedom of conscience would be hailed as a blessing by those who had been before deprived of it, and that Hebrews, like other men, would avail themselves of the advantages which it confers. That this has been eminently the case with the Jews of the United States, who are supposed not to equal in numbers one-third of those of Great Britain, is shown by the many instances where

they have embraced the occupations, and have been thought deserving of the trusts, opened to them by the removal of disabling laws. In that country, Jews have been members of Congress and of the legislatures of the different States, magistrates and law-officers employed by the Government, leading members of Corporations, principal magistrates of cities, and in numerous cases have held commissions in the army and navy. In fact they have been treated, and they have acted, as citizens enjoying and deserving every privilege that the state could confer.

In some of the Transatlantic possessions of Great Britain, a similar course has produced similar effects.

Three Bills were successively passed by the Legislative Assembly of Jamaica for relieving the Jewish inhabitants of that island from the disqualifications to which they were subject. The first two of these were not ratified by the Crown, in consequence, it appears, of some misapprehension on the part of the English Ministry with respect to the state of the existing law. The third Bill received the Royal assent early in 1831 ; and such was the anxiety felt in Jamaica to lose no time in carrying this long-

expected measure into active operation, that not a month—I believe not a week—elapsed from the time when the tidings of its confirmation were received, before several Jews were appointed to offices analogous to those of magistrate and sheriff in this country. Many more have since been placed in situations of considerable consequence ; four\* are at this moment members of the House of Assembly ; nor has there been discovered in them, in these various positions, any deficiency either of activity or intelligence.

In Canada, public opinion was formerly so much in advance of the law, that Jews were more than once elected members of the House of Assembly, at a time when the choice was rendered fruitless by their legal incapacity to take their seats. But their exertions, aided by those of the friends of liberality in that province, at length obtained from its Legislature an Act which received the Royal assent at the beginning of 1832, and which has freed the Canadian code from the disgrace of intolerance, by raising the Jewish citizens to a complete equality with the other inhabitants of the colony.

\* Messrs. G. Phillips, Lawrence, S. Magnus, and Delgado.



They have since held many appointments, both civil and military, and distinguished themselves by their active and courageous loyalty during the rebellion. It is a fact well-deserving to be mentioned in connection with the Canadian Act of 1832, that its success was owing in no small degree to the efforts of a clergyman of the English Church, the chaplain of the forces at Montreal\*. From this gentleman's reply to an Address, in which the Jews expressed to him their lively gratitude for his co-operation, it appears, that as a divine of the Established Faith, he was fervently anxious for the diffusion of his creed, but that he saw no other way of fitly effecting this than sincere conviction ; and that he believed that the road to conviction could only be laid open by kindness and benevolence, and not by disabilities and tests. I cannot doubt that in this country many ministers of religion will act from similar feelings—rightly persuaded that they best obey *her* dictates, who strive to sweep away, and not to preserve, the remnants of oppression ; and that Religion's sanctity is profaned, and not honoured, when men commit in her name the

\* The Rev. B. B. Stevens.

crimes, or even display the spirit, of persecution, imposing punishment upon conscientious belief, in one age by the faggot, or in another, which will not endure such means, by disqualifying laws.

In Holland, where the Jews are numerous, they are to be found in every profession, and hold offices of almost every description. Mr. Asser was for many years Secretary to the Minister of Justice, or, if I may use an English term completely analogous, Under-secretary of State. There are many Jewish barristers. Jews have been members of corporations and of the National Representation, and magistrates of every different rank, from assistant justices of the peace up to chief judge, and members of the principal tribunals. The Jewish inhabitants of Holland have also, as well during the differences between that country and Belgium, as on former and subsequent occasions, furnished soldiers for the army and militia in proportion to their numbers, and indiscriminately with their Christian fellow-citizens. There are several Jewish officers; and a considerable number of Jews, who formed part of the garrison of the citadel of Antwerp, were stated by General Chassé to have shown remark-

able valour, fully equal to that displayed by any other portion of his troops, in the obstinate defence of that fortress against the French.

About the period to which I have just referred, I was informed by a gentleman, who possessed the means of forming at least a probable conjecture on the subject, that he confidently estimated the Jews, then forming part of the Dutch forces, as amounting to upwards of 10,000. But as they neither composed a separate corps, nor were treated as a peculiar class, it was not practicable to ascertain whether this estimate were correct. Persons of every belief are in that country so completely amalgamated together as to all things except their faith—Jews, Protestants and Catholics are so undistinguishably blended in the same ranks—that while the whole body acted throughout the struggle with Belgium with bravery and ardour, it was as impossible (if I may borrow the expressions of an eminent writer of the Jewish faith) to obtain an accurate “account of the number of Jews among the troops of Holland, or of their general behaviour compared with the conduct of the Christian officers and soldiers, as it would be to state the proportion between the number and the behaviour of the soldiers of a fair complexion and of those of a

brown complexion in an army \*.” Can we require a clearer proof that disabling laws uselessly and hurtfully extend to the business of life, to the camp and the senate, distinctions which need only exist in matters necessarily connected with religious creeds,—in the Church and the Synagogue ?

In France, where also the exclusion of those who are not Christians has not been deemed a necessary part of Christianity, the result has been the same.

Many French Jews are magistrates, many military officers ; a Jew was some years ago Mayor of a division of Paris. Mr. Edmond Halphen, who was remarkable for his devotion to the improvement of educational and other benevolent establishments, and who died a few months ago, held a similar office at the time of his decease. Three Jews, Mr. Fould, Mr. Crémieux (a distinguished advocate) and Colonel Cerfberr, are at this moment members of the Chamber of Deputies.

Nor is it an uninteresting circumstance, that

\* Being desirous to ascertain as exactly as possible the number of Jews in the Dutch army, I applied for that purpose to the great jurist, Mr. J. D. Meyer of Amsterdam, who had previously favoured me with information on similar subjects. The words above cited are extracted from his reply.

several persons of the Hebrew faith fell in the combats of July 1830, against the troops of Charles X., and thus contributed their lives to the refutation of the calumny which declares Jews incapable to appreciate, and therefore unworthy to enjoy, the blessings of constitutional liberty.

*“ Since the Constituent Assembly has placed the Israelites on the same footing with other citizens,”* said the French Minister of Public Instruction in the Chamber of Deputies \*, *“ they have partaken of our glory and our misfortunes ; their blood has flowed on the same fields of battle as ours ; their children have been brought up in the same schools as those of their Christian brethren ; they have imbibed the same principles, adopted the same habits, and become most deserving members of the State.”*

On the 1st of May 1847, the King of the French publicly expressed to a deputation of Israelites his satisfaction that in that kingdom the Jewish subjects enjoyed all the rights of which they were formerly deprived ; and he declared his expectation and hope, founded on his knowledge of the effects of this measure in France, that a similar beneficial change would take place wherever there were Jews to ask it.

\* Morning Herald of Monday, December 6, 1830.

Such have been in other countries the result of the act of justice, the proposal of which has during the last few weeks been renewed by the first Minister of the Crown ; and thus does Experience join her voice with that of Reason in declaring to both branches of the British Legislature that no measure can be more clearly equitable and expedient than the removal of the remaining disabilities of the Jews\*.

\* That patriotism is stronger in the minds of the Jews than attachment to the interests of their religious community, is strikingly shown by the conduct of the Jews of Prussia, who took a most active part in the struggle against Napoleon, the benefactor of their race, but the enemy of their country.

REPLY TO THE OBJECTIONS THAT THIS IS A CHRISTIAN NATION AND OUGHT THEREFORE TO HAVE A CHRISTIAN LEGISLATURE ; THAT THE REMOVAL OF THE REMAINING DISABILITIES OF THE JEWS WOULD DESTROY THE ANCIENT CHRISTIAN CHARACTER OF THE CONSTITUTION OF THE COUNTRY ; AND THAT SUCH A MEASURE WOULD BE AN EVIDENCE OF DISRESPECT TO CHRISTIANITY.

If it had not frequently before happened that sound had taken the place of sense in political discussions, one might well be surprised at seeing how often, in opposing the measure now under consideration, recourse has been had to the assertion that this is a Christian nation and ought therefore to have a Christian Legislature.

To this assertion the semblance of an argument is imparted solely by the common sophistry of using the same word in two very different senses ; by using the term “ Christian ” first as signifying composed *chiefly*, and then as meaning composed *entirely*, of Christians. Say which sense you intend

to adopt, and the argument vanishes at once. For if a body of men is to be called "Christian," because it consists principally of individuals professing the Christian religion, then, as it has never been imagined that the enfranchisement of the Jews would introduce more than half a dozen of their number into Parliament, the legislature will, after that measure of justice shall have been adopted, continue to be a Christian legislature. If, on the other hand, the word "Christian" signifies composed *entirely* of Christians, then the English are *not* a Christian nation. It may be contended that they became so indeed, when Edward the First, after permitting many of his Jewish subjects to be murdered, and joining himself in the pillage of more, completed his work of oppression,—which he no doubt attempted to sanctify with the name of zeal for religion;—by expelling from this kingdom every follower of the Hebrew faith. But the Christianity of the English people was at all events again destroyed, when Cromwell and Charles the Second once more permitted the Jews to settle in the country; and it can only be restored by driving every Englishman, who will not declare himself to be a Christian, from his native land. This is an expedient which few persons, I think, would now



be disposed to recommend : and yet, till this be done, there is no pretence for the assertion, that the English are an exclusively Christian nation, and just as little for the conclusion, that they ought to continue to have in name, what history proves them not always to have had in fact, an exclusively Christian legislature.

On the contrary, no principle can be clearer than this,—that those who share the burthens of a state, ought in justice, unless some solid reason can be given for excluding them, to share its honours also : and I trust I have shown that the tenets of the Jews furnish no such reason for denying to them, who possess property and influence within the country, and pay their full share of taxes for the support of the Government, a voice in directing how those taxes are to be applied.

The House of Commons, after it shall have ceased to exclude the Jews, will continue to be Christian in the same sense in which its constituents are Christian, that is to say, a large majority of its number will be followers of the Christian faith.

In every fair view of the case it will be (in the words of the late Sir Robert Grant) “just as Christian in name as at the present moment, and, give me leave to say, a little more Christian in spirit.”

But then, it is exclaimed, what becomes of the ancient Christian character of the constitution of the country ? What becomes of the old maxim that Christianity is part of the law of the land ?

The difficulty in replying to these questions arises from the impracticability of affixing with certainty to the propositions on which they are founded any definite signification.

From the context of the maxim just mentioned, when used by writers of authority on the law of England, I believe that it really means merely that it is illegal to revile or to scoff at the established religion. And taken in this sense, it can certainly afford no reason against any benefit to be conferred on the Jews, who, notwithstanding the calumnies to the contrary cast upon them by some scurrilous writers, are admitted by all who really know them to be remarkable for their scrupulous abstinence from any mark of disrespect to the creeds of other men.

But those who employ as arguments against the removal of the remaining disabilities of the Jews the ambiguous propositions that the constitution has an ancient Christian character, and that Christianity is part of the law, must, I presume, understand these assertions as implying that there exists

some ancient constitutional principle, which declares that all Christians ought to enjoy privileges and favour, from which all who are not Christians should be excluded. For in no other sense than this would those assertions furnish the shadow of an argument against the measure proposed.

Now if there were indeed any such constitutional principle, it would not follow as a matter of course that it ought to be retained.

But in truth, it is easy of proof that no such ancient constitutional principle exists ; it is easy of proof that the only Christianity forming part of or recognised by the ancient constitution of England, has been the Established Religion for the time being, the Christianity of Rome before the Reformation, and that of the Anglican Church since.

The writ for burning a heretic is found among the oldest forms of English legal proceedings, and is believed to be a portion of the immemorial usage or “ common law ” of the land.

And a heretic is defined by Lyndewode, one of the most ancient authorities on this subject, as being, not a Jew or an infidel, but “ he who doubts concerning the Catholic faith, or who neglects to observe those things which the Roman Church has determined or decreed to observe.”

It was therefore in those remote times a constitutional principle that every Christian who might display any want of close adherence to the tenets of the Roman Church was liable to be committed to the flames.

True it is that in the early period of English history, before the spirit of religious inquiry began to stir the hearts of the people, few, if any, instances occur of such punishment being actually inflicted. But this was not the result of the state of the law, nor, it would seem, of any indisposition to enforce it. Heretics were not burned simply because there were no heretics to burn.

And when, towards the beginning of the fifteenth century, Lollardy, the result of the teachings of Wicliffe, and the precursor of Protestantism, appeared in England, the true reason of the previous inactivity of the dreadful law against heretics was soon revealed. Two Acts of Henry IV. and V. made the writ (originally capable of being employed by order of the king in council only) easier of use by allowing the ordinary tribunals to put it in force: and under the common law, thus quickened by the help of Parliament, several of Wicliffe's disciples were brought to the stake.

From this time till that of the Reformation the

Lollards continued to exist in England\*; not crushed by persecution like the Albigenses in France, not braving it like the Protestants of a later period, but generally avoiding it by cherishing their belief in secret and by outwardly conforming to the legal religion, like the Jews who remained in the Spanish Peninsula subsequently to the expulsion of the bulk of the Hebrew population.

The fantastic intolerance of Henry VIII. is well known. After denying the supremacy of the Pope, he at first retained, as part of the established faith, most of the other tenets which distinguish the Church of Rome from the Lutheran and other reformed churches. He repeatedly changed the national religion by Act of Parliament,—making it in one year a capital crime to assert what in the year before it had been a capital crime to deny; and after every change he punished in due legal form, sometimes with the axe under modern statutes, sometimes with fire under the ancient law, the Catholics for adhering to the doctrines which he had abandoned, as well as the Protestants for embracing principles of which he had not yet recognised the truth.

Nor could the milder spirit of his successor

\* Hallam's Constitutional History, vol. i. p. 77-78.

Edward VI. save Joan Boucher and Van Paris\* from perishing at the stake as heretics.

The fires that in the reign of Mary burned in Smithfield and elsewhere for the destruction of Protestants, are familiar to almost every Englishman from his childhood.

It is a fact less popularly known, although admitted by those who have studied the history of their country, that the number of Catholics who suffered on the scaffold under Elizabeth, nominally perhaps for treason, but really for their religious belief (since their treason had been shown by no overt act that could justify such an accusation), amounted probably to about 200†.

During the same reign and that of James I., the ancient writ against heretics displayed its expiring force by causing the execution of seven Arians and Anabaptists‡.

But dissidents, both Catholic and Protestant, from the Established Church, were now becoming so numerous that it was impossible to put laws imposing capital punishment into general operation against them.

\* Hallam, vol. i. p. 132. Hume, vol. iv. p. 324. Edition of 1818.

† Hallam, vol. i. p. 220–222. ‡ Hallam, vol. ii. p. 275.

Acts less severe, and for that reason more capable of being enforced, were therefore passed, although the power of inflicting capital punishment for dissent was not yet abandoned. By various statutes of Elizabeth and James I.\*, different fines and forfeitures, gradually rising in amount from one shilling to two-thirds of the offender's lands, and the penalty of imprisonment without bail or mainprize, were imposed on all such as should fail to attend divine service in the churches, or some other place of common prayer.

The writ for the burning of heretics was finally abolished under Charles II., in the year 1677. But the statutes to which I have just referred remained in undiminished vigour till the passing of the Toleration Act in 1688, the first year of William and Mary.

This famous enactment, which for the first time interfered with the ancient principle of English law, that it was forbidden to any Christian to dissent from the Established Church, relieved from the penalties imposed by the acts of Elizabeth and James some classes only of Protestant Dis-

\* 1 Eliz. c. 2 ; 23 Eliz. c. 1 ; 29 Eliz. c. 6 ; 35 Eliz. c. 1 ; 3 James I. c. 4.

senters. All Roman Catholics, and certain sects of Protestants (but especially the Unitarians) were excluded from its benefits.

In 1779\*, the advantages of the Toleration Act were extended to some other classes of Protestant Dissenters, and in 1791† to the Roman Catholics. But until 1813‡ Unitarians remained liable to be fined, to forfeit two-thirds of their lands, to be imprisoned without bail or mainprize, for neglecting to attend divine worship according to the forms of the Anglican Church.

A full review of the laws for the punishment of Christian Dissenters would occupy a volume. But the preceding brief sketch will suffice to show, that from the earliest times of the English constitution down to the year 1688, no Christian could, without being liable to be punished as a criminal, dissent from the established religion for the time being, and that from this date till 1813, a similar liability existed with reference to some classes or class of Christians.

It may perhaps indeed be observed, that political disqualifications are the subject now under dis-

\* 19 Geo. III. c. 44.

† 31 Geo. III. c. 32.

‡ In this year the Unitarians were relieved by 53 Geo. III. c. 160.



cussion, and that at least in ancient times, and down to the reign of Elizabeth, no such disqualifications were imposed on any body of Christians by reason of their belief.

But the same thing was true of the Jews as long as they remained in this country. Indeed, I rather believe that their legal position was better than that of a dissenting Christian. For a Jew seems not to have been regarded as guilty of heresy or apostasy, and could not therefore be lawfully sentenced to the condign punishments attached to those offences, although it must be admitted that the zeal and rapacity of both princes and people amply remedied any undue leniency of the law, by the tumultuous massacres and robberies to which they frequently subjected the Hebrews.

With regard to the imposition upon Dissenters of incapacities for offices and trusts, these would in those times have been utterly superfluous. It would have been useless to enact statutes for shutting out from Parliament those who could not lawfully inhabit the country; it would have been idle to declare that men should not hold offices, who could not legally continue to live.

Between the times of the Reformation and the

Revolution however, and before the penalty of death had ceased to be denounced against Christian dissent, the Tests were introduced\*, which had the effect of excluding Protestant Dissenters from offices under the Crown, and in municipal corporations; and Roman Catholics from offices under government, from corporations, and from Parliament. These tests continued in force until 1828 and 1829, and, as I have noticed in a former page, such Dissenters as object to the taking of oaths were not finally relieved from their operation till 1838.

On the whole, then, it appears that from the first beginnings of the constitution of England till the year 1677, all Christians not of the established church were exposed to capital punishment, that till 1688 they continued to encounter the risks of heavy forfeitures and indefinite imprisonment, that till 1791 the Roman Catholics, and till 1813 the Unitarians, were threatened with these same penalties; and that till the year 1838 there never was a time at which some Christian sect was not liable either to criminal prosecutions, to extensive civil disqualifications, or to both.

\* At various periods from the reign of Elizabeth down to that of Charles II.

How then, I ask, can it in the face of these facts be maintained that Christianity in general, (and not simply the Christianity of the established church) was recognised and favoured by, and was part and parcel of, the ancient law and constitution of England ?

Do faggots serve to kindle the flame of love ? are fetters bands of union ? are fines and forfeitures marks of favour and protection ? are even political disqualifications the emblems of confidence and honour ?

If not, what is the meaning of the assertion that the law and constitution have always recognised Christianity in general, when till within the last ten years they have always been threatening to reward some Christians for their belief by fire, by loss of liberty, by pecuniary penalties, or at least by disabilities and exclusions ?

Is it not clear that the Christianity which was said of old to be " part of the law," was the Christianity of the established church then existing, and that the endeavour to interpret that dictum as signifying that honour is to be shown to all who are Christians, and that disqualifications are to be reserved for all who are not, is a mere attempt to justify an incongruous and indefensible

state of things, by affixing to an ancient maxim a novel and unauthorized interpretation?

As then there never has existed in the British constitution any principle establishing a line of demarcation, with reference to the enjoyment of civil franchises and trusts, between all Christians and all non-Christians, it is unnecessary at this moment to inquire, whether if there *had* been such a principle, justice and Christianity itself would not call for its instant abrogation.

It is unnecessary to contend at any length, that had there formerly been such a principle, it would now have been abandoned by the admission of Jews to be electors, magistrates, and corporate officers, since the legislature, though it forms an essential portion, is not the whole, of the constitution of the country, and since it is impossible to deny that the constituency, the magistracy, and the municipal corporations are also important parts of the constitutional system.

Before passing to the next objection that appears to be urged with any earnestness, I should perhaps notice a question, sometimes put to the advocates of the removal of the remaining disabilities affecting the Jews,—where the march of liberality is to be stopped, and whether they are prepared to contend

that under the rule of a Christian sovereign civil privileges should be granted to Mahometans and Parsees? I am not sure whether this question be really intended as an argument. If it is so intended, the answer is obvious, that in this country there is no body of Mahometans and Parsees to claim equal rights with their fellow-subjects, but that in that part of the Queen's dominions where such classes exist, the question has already been decided in their favour by the British Legislature, since by the Act of 1833 for the government of India it is emphatically declared that "no native of the said territories, nor any natural-born subject of His Majesty therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office, or employment" under the East India Company\*.

Let us now consider the assertion that disrespect would be shown to Christianity by ceasing to exclude from the Legislature those who are not Christians.

To this the first answer that suggests itself is the admitted truth that the existing law does *not* exclude from the Legislature those who are not Christians, since persons who believe "neither in the

\* 3 & 4 William IV. c. 85. sec. 87.

Old Covenant nor the New" have seldom scrupled to take an oath upon the faith of a Christian. But at least, say the defenders of the existing form, a reverence is displayed towards Christianity by compelling all our legislators to *profess* an adherence to it. Can such an argument require a reply? Can it be seriously contended that respect is evinced for any religion, by enforcing an outward show, on the part of those who have no inward reality, of adherence to its tenets? that incredulity is graced by a semblance of belief?

But the inconsistency of our opponents does not stop here. It will be found that the very party, and in several instances the very individuals, who are now strenuously contending for the exclusion of the Jews, have on former and not very remote occasions, during the debates on the repeal of the Test and Corporation Acts and on Catholic Emancipation in 1828 and 1829, and even so lately as in certain discussions of 1845 and 1846, declared, that the Unitarians are not really Christians, and that the practices of the Roman Catholic religion are idolatrous. And yet, those who *then* cast these reproaches on classes of their fellow-subjects that are already admitted into Parliament, now maintain that the feelings of the country would be outraged

if that assembly should cease to be purely Christian. Are we then to understand that Roman Catholics are idolaters, and Unitarians are infidels, when the immediate purpose is to deny them some privilege, but that they are fellow-Christians when the object is to shut out the Jews? Is *this* respect for Christianity?

The inquiry however whether reverence be shown for Christianity by shutting out from Parliament any Jews whom constituencies principally Christian may chance to elect as their representatives, must chiefly depend upon the question whether such an exclusion be required or forbidden by the precepts of the Christian religion; for it will be admitted that reverence cannot be displayed for any religion by disobeying its commands.

On this latter question therefore I am compelled to offer a few observations, and this my readers may be assured that I shall do with the utmost respect for those religious opinions which I do not myself entertain.

It is clear that the disqualification of the Jews for Parliament not merely deprives of an honourable distinction the few individuals among them who might otherwise become members of the legislature, but inflicts a deep injury on the whole

body by fastening upon them the stigma of legal degradation.

It is clear too, (for no party seriously attempt to maintain the contrary) that to remove that disqualification would be productive of no practical evil to any other portion of the community.

Now when the New Testament is found to declare that every Christian should do to other men as he would that they should do to him\*,—that sorrow awaits every man that does evil, and glory, honour, and peace are the portion of all that do good, whether Jew or Gentile†,—that of the three virtues faith, hope, and charity, the greatest is charity‡,—that he that saith that he is in the light and hateth his brother, is in fact in darkness§;—when these and such as these are proclaimed as the precepts of Christianity, the first impression produced by them is, that such a religion cannot command the continuance of a law which causes to one body of men serious evil as a punishment for conscientious belief, and works no practical benefit to the remainder of the nation.

If however I found that learned Christians in general agreed in declaring that Christianity did

\* St. Matthew, chap. 7. v. 12. † Romans, chap. 2. v. 9, 10.

‡ 1 Corinthians, chap. 13. v. 13. § 1 John, chap. 2, v. 9.



command this, I should of course conclude that I had misapprehended the precepts to which I have referred, and that they were to be understood in some other than their plain and obvious signification.

But when it is seen that many pious Christians at least, both divines and laymen, attribute the same meaning to these commands, when (I cite two instances from among many) the Archbishop of Dublin has emphatically said\* that to punish men for religious error is persecution, and that if there be any such persons as persecuting Christians in this country, he differs from them in religion more than from the Jews themselves ;—when Sir Robert Grant, in bringing forward a motion for removing the civil disabilities of the Jews, called on the professors of Christianity† to efface the reproach that affected their national faith, and to render their religion what it ought to be, a religion of peace and goodwill towards all mankind ;—I am encouraged to believe that I have rightly understood, according to the simple meaning of the words in which they are expressed, those passages of the New Testament which appear to declare that

\* Debate in the Lords, August 1, 1833.

† Debate in the House of Commons, April 17, 1833.

justice knows no distinction of creed, and that charity in its most comprehensive sense is the highest of human duties.

And so believing I venture (although myself an adherent of a more ancient faith) to say to my Christian fellow-subjects : As you value the reputation of your country for generosity and uprightness, exclude not one small body of men from privileges to which all others have been admitted ; continue no longer a useless and degrading disqualification. But if you have resolved on the contrary, then at least give *any* reason for your determination rather than your love for religion. Cast not upon your faith so foul a stigma, as to say that respect for it requires you to perpetuate a law producing extensive injury to one class of your countrymen, and not the slightest benefit to the rest. Declare not (in contradiction to the words of the book which you revere as divine) that you ought *not* to do to others, as you would that they should do unto you,—that honour ought *not* to be the portion of the Jew that does good,—that faith is greater than charity,—and lastly, whilst you boast that the moral system of Christianity is a development of the most sublime portions of the Revelation delivered to the Hebrews, do not abandon that great precept on

which the morality of the Old Testament is founded, and which even Jews have hitherto supposed to have been adopted\* as the foundation of the New, “Thou shalt love thy neighbour as thyself†.”

\* St. Matthew, chap. 22. v. 37 to 40. St. Mark, chap. 12 v. 29 to 31.

† Leviticus, chap. 19. v. 18.

THE END.

**DEFENCE OF THE THIRTY-NINE ARTICLES :**

**IN REPLY TO**

**THE BISHOP OF EXETER.**

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**A DEFENCE**  
**OF THE**  
**THIRTY-NINE ARTICLES**  
**AS THE**  
**LEGAL AND CANONICAL TEST OF DOCTRINE**  
**IN THE**  
**CHURCH OF ENGLAND**  
**IN ALL POINTS TREATED OF IN THEM:**  
**BEING A REPLY**  
**TO THE**  
**BISHOP OF EXETER'S REMARKS UPON A CLAUSE**  
**PROPOSED FOR INSERTION IN**  
**THE CLERGY OFFENCES BILL.**

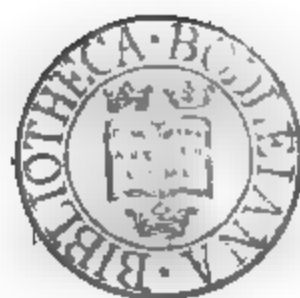
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# A DEFENCE OF THE XXXIX. ARTICLES,

ETC. ETC.

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THE letter lately addressed by the Lord Bishop of Exeter to the Archdeacons of his Diocese, on the subject of a clause proposed for insertion in the "Clergy Offences Bill," having been published by his Lordship's sanction in the Newspapers, its contents are of course fairly open to public criticism. And as the subject which has called it forth is one in which the clergy are deeply interested, and the Bishop's appeal is virtually addressed to them all, it can hardly be regarded as presumptuous in one of that body offering a few remarks upon it.

The clause which has excited the Bishop's alarm runs thus:—

"That nothing shall be adjudged in any Court of this land [? realm] to be heresy, or false or unsound doctrine, on any point treated of in the Articles of Religion agreed upon in the Convocation holden at London in the year 1562, commonly called the Thirty-nine Articles, that is not opposed to the doctrine of the Church of England as there declared."

The object of this clause clearly is, to establish the supremacy of the Thirty-nine Articles as the standard and test of doctrine in all points *treated of in them*; by which any question as to the orthodoxy of the teaching of one of the clergy on any of those points is to be determined; and thus to preserve those whose views are agreeable to the doctrine of the Church, as there delivered with dogmatic precision in her own *sole* Confession of faith, from being subjected to the yoke of unauthorized standards of faith, *on the same points*, framed by individuals out of other sources.

The clause is one simply of a *negative* and *protective* character; favouring no party at the expense of another; but simply calculated to prevent the peace of the Church being dis-



turbed and her Ministers harassed, by unwarrantable attempts on the part of individuals to set up their own views as the Church's standard of faith.

That such a proposal should have excited the alarm of a Bishop of our Church, is a fact which, to an impartial observer, must seem almost unaccountable, and one which may reasonably create *an opposite alarm* in the minds of others as to the standard which the Bishop is desirous of substituting for that against which he so loudly raises his voice.

Yet of such a clause the Bishop of Exeter hesitates not to use the following language.

"The proposed innovation [?], however innocent may be the intention of those who will introduce it, is, in my judgment, one of the most *perilous suggestions* which could be brought forward. It directly and manifestly tends to *rob the Church of its most sacred and dearest privilege*—reliance on the truly Catholic principles on which are based the worship of Almighty God, the administration of the sacraments, and the instruction of the young and the ignorant in *the essential and fundamental particulars of Christ's saving truth amongst us.*"\*

Such is the opinion which the Lord Bishop of Exeter hesitates not to express of the Thirty-Nine Articles,—that if these were made the standard and test of doctrine, *even in the points treated of in them*, (for that is the proposal objected to), the consequences would be most disastrous, tending "*to rob the Church of its most sacred and dearest privilege,*" to the injury of even "*the essential and fundamental particulars of Christ's saving Truth amongst us.*" Remarkable language this, surely, to be used of that Document which has been for nearly three centuries the only standard of faith which the Church of England has ever offered to her members! And it is impossible not to perceive, that from such language one of these two conclusions must necessarily follow, either that the Church has been grossly negligent in the discharge of her duties, in drawing up such a poor, uncertain, imperfect, and defective standard of doctrine, or that those who drew them up did not take the same view of the Church's "*most sacred and dearest privilege,*" and "*the essential and fundamental particulars of Christ's saving Truth amongst us,*" as the Bishop of Exeter does.

\* Letter to the Archdeacons of his Diocese, written London, April 5, and inserted, by the Bishop's permission, in the English Churchman of April 6.

Which of these two conclusions may be the correct one, I leave the reader to decide.

It must be admitted, no doubt, that the clause has a practical bearing upon the ground taken by the Bishop of Exeter in his dealings with the clergy of his Diocese (now made public in such a way as to become fair objects of public remark) which render his strong feelings with respect to it less unaccountable than they would otherwise be. In fact, the case which is now before the public, of recent occurrence in that diocese, has brought matters to a crisis; and rendered it necessary, that some exposition of the law, as to the standard of faith in our Church, by which the power of the Bishops over the clergy in doctrinal matters is to be regulated, should be made by authority. The Bishop has refused institution to a nominee of the Crown, after an examination the character of which I find it impossible to describe in terms such as I should alone wish to use towards the Episcopal office, because of his interpreting portions of the Prayer-book *in a different sense from that adopted by the Bishop*; success in which refusal would of course involve *practical* deposition from the ministry.

Now, however triumphant may be the appeal to the Courts of Law in the particular case I am now referring to, the *principle* maintained by the Bishop—the principle which has for many years formed the sceptre of his rule, and been wielded with no sparing hand—will, I fear, remain to be dealt with. And it is essential to the peace and welfare of the Church, that this *second* attempt,\* within a few years, to rule the Church by a private standard of faith instead of the Church's own standard, be so met as to prevent its being succeeded by others.

I will now, then, endeavour to show, from testimonies of indubitable authority, that the Thirty-nine Articles are the legal and canonical test of doctrine in our Church in all points treated of in them; and shall then proceed to offer some general observations on the subject, replying in the course of them to the arguments and objections adduced by the Bishop and others in opposition to this view.

It may tend to clear the matter to the general reader, if I state first, what are the subscriptions and declarations required from the clergy at one or another period of their ministry.

\* The former was in the famous Eighty-nine Questions of Dr. Marsh, Bishop of Peterborough.

By the 13 Eliz. c. 12. (a very important Act in this matter, to which I shall have occasion to refer more fully hereafter) there is required a declaration of assent, and a subscription to the Articles,\* and from an Incumbent that he shall, soon after his induction, “publicly read” them in his church, “with declaration of his *unfeigned assent to the same*,” and any one who “shall advisedly *maintain or affirm any doctrine directly contrary or repugnant to any of the said Articles*” is punishable.

The 36th Canon (a. 1603–4.) enacts as follows,—

“No person shall hereafter be received into the ministry, &c. . . . except he shall first subscribe to these three Articles following, in such manner and sort as we have here appointed.

I. That the King’s Majesty, &c. [The declaration respecting the Royal Supremacy.]

II. That the Book of Common Prayer and of ordering of Bishops, Priests, and Deacons, *containeth in it nothing contrary to the word of God*, and that it may lawfully so be used; and that he himself will use the form in the said Book prescribed, in public Prayer, and administration of the Sacraments, and none other.

III. That he alloweth the Book of Articles of Religion agreed upon by the Archbishops and Bishops of both provinces, and the whole Clergy, in the Convocation holden at London in the year of our Lord God one thousand five hundred sixty and two; and that he acknowledgeth all and every the Articles therein contained, being in number nine and thirty, besides the Ratification, to be *agreeable to the word of God*.

“To these three Articles whosoever will subscribe, he shall, for the avoiding of all ambiguities, subscribe in this order and form of words, setting down both his Christian and surname, viz. *I, N. N., do willingly and ex animo subscribe to these three Articles above mentioned, and to all things that are contained in them.*”

With respect to the Articles, then, it is required that they shall be subscribed with a declaration of assent to them, that they shall be acknowledged to be *agreeable to the word of God*, that they shall be read publicly with a declaration of *unfeigned assent to them*; and it is enacted that any one MAINTAINING ANY DOCTRINE REPUGNANT TO THEM shall be punished.

\* I do not enter here into the question, whether *this* Act contemplated subscription to *all* the Articles, because it is needless to moot such a question in the present day.

The Articles, I would here observe, *include* the three *Creeds*, and also give a general authority to the *Homilies* as containing a "Godly and wholesome doctrine," &c. (See Art. 8 & 35.)

With respect to the Book of Common Prayer, there is required only subscription to a declaration that it "*containeth nothing contrary to the word of God*, and may lawfully be used."

And this is the most stringent subscription and declaration the clergy are called upon to make with reference to the Book of Common Prayer. For though the Declaration required by the Act of Uniformity (13, 14, Car. II.) is often quoted as pledging them to more than this, it is a mistake so to allege it. The words of the Declaration required to be made by that Act, standing alone and independent of the context, might seem indeed stronger than the words of the Canon. But the context entirely does away with such a notion, for it *expressly* restricts the meaning of the words to "*the use*" of the Book.

The words of the Act are these;—"And *to the end that uniformity in the public worship of God* (which is so much desired) *may be speedily effected*, be it further enacted. . . that every Parson . . . . shall read the morning and evening prayer. . . and declare his *unfeigned assent and consent to THE USE* of all things in the said Book contained and prescribed, *in these words*, and no other, I, A. B., do here declare my unfeigned assent and consent to all and every thing contained and prescribed in and by the book intituled, The Book of Common Prayer, &c." (13 & 14 Car. II. c. 4. § 3, 4.)

And again, similarly, in clause 6, it is enacted, that every person subsequently appointed to a benefice, should, after reading the morning and evening prayer appointed by the Book of Common Prayer, "declare his *unfeigned assent and consent to THE USE* of all things therein contained and prescribed, *according to the form before appointed*."

And in the Act 23 Geo. II. c. 28, made "to explain part" of the Act of Uniformity, we find this Declaration referred to in the following terms,—“That every person who hath already read, or who shall hereafter read, the said Articles, and hath made, or shall hereafter make, the said Declaration [of "unfeigned assent" to the Articles,] at the same time that he did read or shall hereafter read the Morning and Evening Prayer, and *declare his unfeigned assent and consent to THE USE of all things*,

*therein contained and prescribed, according to the directions of the said in part recited Act of the 13th and 14th years of the reign of King Charles the Second, shall be," &c. (§ 2.)*

And in conformity with this Declaration to be made in church after reading the service, is that required by the Act to be subscribed in the presence of the Bishop, which is in the following words : " I, A. B., do declare, that I will conform to the Liturgy of the Church of England, as it is now by law established." (§ 9.)

The Declarations required by the Act of Uniformity, therefore, cannot be considered more stringent than that required to be subscribed by the 36th Canon. *Legally*, they are of *less force*, as binding only to *the use* of the Book. *Morally*, I must earnestly maintain that they are of *equal force*, because no man ought to give his assent and consent to *the use* of all things contained and prescribed in the Book, who thinks any part of it "*contrary to the word of God.*"

Such, then, are the *facts* with regard to the subscriptions and declarations required with reference to the Articles and the Book of Common Prayer. And, I suppose, it is impossible to consider them, and not see a difference between the assent required to one and the other. Common sense might lead one to expect that such a difference should exist. In the one we have a collection of *national formularies of devotion*, written at a period when a large proportion of the people were inclined to Romanism, and at the same time compelled to attend the service of the national churches, and consequently carefully drawn up so as to give as little offence as possible to Romish prejudices. Is such a Book calculated to serve the purpose of a standard of faith ? I might add that no such formularies could be drawn up under *any* circumstances, so as satisfactorily to serve the purpose of a standard of faith.\* Hence all that is required is,

\* The following remark of the compilers of the Book, in their Preface, is not unworthy of remark with reference to this point. They say, " We are fully persuaded in our judgments (and we here profess it to the world) that the Book, as it stood before established by law, doth not contain in it anything contrary to the word of God, or to sound doctrine, or which a godly man may not with a good conscience use and submit unto, or which is not *fairly defensible* against any that shall oppose the same ; *if it shall be allowed such just and favourable construction as in common equity ought to be allowed to all human writings.*"

a declaration of belief that there is *nothing in the Book contrary to the word of God, and that it may lawfully be used*. There may be a *difference of view as to the doctrinal interpretation to be given to some parts*, or even as to the expediency of some expressions, without in the slightest degree affecting the good faith of the subscription given to it. For a Bishop to affix his own meaning to certain portions, and require assent to that meaning from all his clergy, is palpably illegal. He can legally require nothing more than a declaration of belief that the Book contains nothing contrary to the word of God.

But in the other case (that of the Thirty-nine Articles) we have a precise Confession of faith on all the great points of Christian doctrine, drawn up in dogmatic propositions, *as a test of doctrinal soundness* for the clergy. Hence, with reference to these, the law requires an acknowledgment that they are “agreeable to the word of God,” and a declaration of “unfeigned assent to them,” and, more than all, enacts that any one maintaining *any doctrine contrary to them* shall be punished. Here no doubt a Bishop is bound to see, that the doctrine maintained is what he believes to be that of the Articles, *so far as their “literal and grammatical” sense extends*; and for that end is permitted by the law to subject an applicant for orders, or institution, to an examination; an ordeal which the law no doubt contemplated would always be conducted by a Bishop with the urbanity and Christian courtesy suited to his position in society and the Church. And if a difference of opinion should exist even as to this, and the case unfortunately require it, an appeal to a legal tribunal to decide the point in question must be resorted to. **BUT TO THIS STANDARD OF FAITH THE BISHOP IS LIMITED.** Conformity of doctrine with the Articles in their literal and grammatical sense, is all that can be required in any point treated of in them.

A simple statement, then, of the subscriptions and declarations required from the clergy, seems pretty well to decide, of itself, the point in question. But I shall now proceed to shew more fully, by testimonies of unquestionable authority, that the Thirty-nine Articles were intended to be the standard of faith and test of orthodoxy in our Church.

In the first place, then, they are proposed to us by their very title, as Articles agreed upon “*for the avoiding of diversities of*

*opinions, and for the establishing of consent touching true religion."* So definite and precise were their statements considered to be, that they were thought sufficient to prevent diversities of opinions, and establish consent touching true religion. And yet the Bishop of Exeter tells us, that they are so unsuitable to be made the supreme standard of doctrine, even on the points treated of by them, that "the essential and fundamental particulars of Christ's saving truth" are endangered amongst us by making them so! There seems to be a very awkward and irreconcilable discrepancy between these two statements.

Let us now observe how these Articles have been made use of by the Church as the test of doctrine and standard of faith.

Among the Canons promulgated with the Royal assent in 1571, occur the following (the English is from the edition published by authority in 1571):—

One regarding the licensing of preachers, in which their soundness in doctrine is directed to be thus tested; that they "subscribe to *the Articles of Christian religion* publicly approved in the Synod, and that they make promise willingly to maintain and defend *that doctrine which is contained in them* as most agreeable to the verity of God's word."\* (p. 4.)

Another, giving directions to preachers, in the following words.

"But chiefly they shall take heed, that they teach nothing in their preaching, which they would have the people religiously to observe, and believe, but that which is agreeable to the doctrine of the Old Testament or the New, and that which the Catholic Fathers and antient Bishops have gathered out of that doctrine. *And because those Articles of Christian religion*, agreed upon by the Bishops, in the lawful and godly Convocation, and by the commandment and authority of our noble Princess Elizabeth assembled and holden, undoubtedly are gathered out

\* Episcopus quisque ante calendas Septembris proximas advocabit ad se omnes publicos concionatores, quicunque erunt in sua cujusque diocesi, et ab illis repetet facultates concionandi, quas habent autentico [authentic] sigillo consignatas, easque vel retinebit apud se vel extinguet. Deinde, delectu illorum prudenter facto, quoscunque ad illam tantam functionem ætate, doctrina, judicio, innocentia, modestia, gravitate, pares invenerit, illis novas facultates ultro dabit; ita tamen ut prius subscribant articulis Christianæ religionis publice in synodo approbatis, *fidemque dent, se velle tueri et defendere doctrinam eam quæ in illis continetur, ut consentientissimam veritati divini verbi.* Liber quorundam canon. &c. 1571. Can. 1. Wilk. Concil. vol. 4, p. 263.



*of the holy books of the Old and New Testament, and in all points agree with the heavenly doctrine contained in them : because also the Book of Common Prayers and the Book of the Consecration of Archbishops, Bishops, Ministers, and Deacons, contain nothing REPUGNANT to the same doctrine : whosoever shall be sent to teach the people, shall not only in their preaching, but also by subscription, confirm the authority and truth of THOSE ARTICLES.\** (p. 23.)

The words here used are remarkable. Not merely is there a marked difference in the terms applied in the two cases of the Articles and the Prayer Book, showing a clear recognition of the superior authority and pertinency of one to the other in the determination of points of faith, (the one being spoken of as definitively and dogmatically laying down the true doctrine, the other only as containing nothing REPUGNANT TO the doctrine so laid down), but the last clause, which is the most important, refers to the Articles alone.

But still more conclusive is the evidence of a Canon of the Provincial Synod held at London in 1575, the canons of which were issued with the royal sanction and authority.

The first Canon enacts as follows,—

“ That none shall be made deacon or minister hereafter, but only such as shall bring unto the Bishop of that diocese from men known to the same Bishop to be of sound religion, a testimonial both of his honest life, and of his *professing the doctrines expressed in the ‘ Articles of religion which concern the confession of a true Christian faith, and the doctrine of the Sacraments ’* comprised in a book entitled, ‘ Articles whereupon it was agreed by the Archbishops and Bishops, &c. a. 1562,’ put forth by the Queen’s authority, and which also shall then be able to answer and render to the same Bishop an account of *his faith* in Latin, AGREEABLE AND CONSONANT TO THE SAID ARTICLES, and shall first subscribe to the said Articles.” “ Item, that none shall be admitted to any dignity

\* Imprimis vero videbunt, ne quid unquam doceant pro concione, quod a populo religiose teneri et credi velint, nisi quod consentaneum sit doctrinæ Veteris aut Novi Testamenti, quodque ex illa ipsa doctrina Catholici patres et veteres episcopi collegerint. Et quoniam articuli illi religionis Christianæ, in quos consensus est ab episcopis in legitima et sancta synodo, jussu atque auctoritate serenissimæ principis Elizabethæ convocata et celebrata, haud dubie collecti sunt ex sacris libris Veteris et Novi Testamenti, et cum cœlesti doctrina, quæ in illis continetur, per omnia congruunt: quoniam etiam liber publicarum precum et liber de inauguratione archiepiscoporum, episcoporum, presbyterorum et diaconorum, nihil continent *ab illa ipsa doctrina alienum*: quisque mittentur ad docendum populum, illorum articulorum auctoritatem et fidem, non tantum concionibus suis, sed etiam subscriptione confirmabunt. —Ib. Can. de Concionat. p. 267.



or benefice with cure of souls, unless he be qualified *according to the tenor of the first Article.*"\*

Here, clearly, the Articles are put forward, not merely (as the proposed clause directs) as the supreme standard of faith in the points treated of in them, but as a *sufficient* standard for the whole faith. The applicant for *ordination* or for *institution* is to "*profess the doctrines EXPRESSED IN THE ARTICLES,*" and to "*render an account of HIS FAITH*" "*agreeable and consonant to THE ARTICLES.*"

A similar direction was re-issued in the Canons drawn up at a Synod that met in 1584, and published by Royal authority; and again in the Canons drawn up at a Synod in 1597, and published by the same authority; as the reader will find in the sub-joined note.†

Again, in the Canons of 1603–4, (the last drawn up that are in force,) it is required of any one applying to a Bishop for orders, that "he be able to yield an account of *his faith* in Latin, *according to the Articles of Religion.*" (Can. 34.) In the case of an applicant for *institution*, the direction given in the Canons just quoted is discontinued, and the only examination (in addition to the Letters of Orders and the usual Testimonial) suggested is, whether he is "worthy of his ministry;" the practical commentary on which, in the fact that an examination as to doctrine of an applicant for institution to a living is in our Church a thing almost unprecedented, is the best exponent of its meaning.

Now let the reader ask himself, what our Church would have said at this, her best, period, of one who thought so disparagingly of the Articles as to be dissatisfied with them as the standard of faith even in the points treated of in them; and still more of one who declared, that, to make them such, would be, "to rob the Church of its most sacred and dearest privilege,"

\* Concil. ed. Wilkins, iv. 284.

† Deinde ne quis episcopus posthac aliquem in sacros ordines cooptet. qui non, &c. . . . vel saltem, nisi *ratiōnem fidei suæ JUXTA ARTICULOS ILLOS religionis in synodo episcoporum et cleri approbatos Latino sermone reddere possit*, adeo ut sacrarum literarum testimonia, quibus eorundem articulorum veritas innitur, recitare etiam valeat, &c. . . . Adhæc ne quis episcopus aliquem in *beneficium* (uti vocant) instituat, nisi qui *predictis conditionibus ornatus fuerit.*—Art. in Syn. Lond. a. 1584. Concil. ed. Wilk. iv. 315. Repeated verbatim in "Capit. sive Constitut. eccles. in Synod. Lond. a. 1597." Ib. p. 352.

and deprive us of some of "the essential and fundamental particulars of Christ's saving truth."

There are some things of which we know not the full value until they are attacked and depreciated. We then see how they work, and why they are vilified.

Again, what says the Royal Declaration prefixed to the Articles in 1628 by Charles I.? (The date of its publication has been clearly proved by Winchester, in the Appendix to his Treatise on the 17th Article.)

"We hold it most agreeable to this our kingly office, and our own religious zeal, to conserve and maintain the Church committed to our charge, in *unity of true religion*, and in *the bond of peace*; and not to suffer unnecessary disputations, altercations, or questions to be raised, which may nourish faction both in the Church and Commonwealth. We have, therefore, upon mature deliberation, and with the advice of so many of our Bishops as might conveniently be called together, thought fit to make this Declaration following;—*That the Articles of the Church of England*, (which have been allowed and authorized heretofore, and which our Clergy generally have subscribed unto,) *do contain the true doctrine of the Church of England* agreeable to God's word; which we do therefore ratify and confirm, requiring all our loving subjects to continue in the uniform profession thereof, and *prohibiting the least difference from the said Articles*," &c.

And it is added at the end of the Declaration, respecting some disputes then existing,—

"We will, that all further curious search be laid aside, and these disputes shut up in God's promises, as they be generally set forth to us in the Holy Scriptures, and *the general meaning of the Articles of the Church of England according to them*. And that no man hereafter shall either print, or preach, to draw the Article aside *any way*, but shall submit to it in the plain and full meaning thereof; *and shall not put his own sense or comment to be the meaning of the Article*, but shall take it in the literal and grammatical sense." And no divine is to "preach or print any thing either way, other than is already established in Convocation with our royal assent."

And this was written at a time when the Prayer-book had not been submitted to Convocation.

Can words more distinctly point out the Articles as the supreme standard of doctrine in the Church of England in all matters treated of in them?

But still further, *they* are distinctly placed before us by the

*statute law of the realm*, (in the Act I have already briefly referred to) as the standard of orthodoxy, *the test to be applied to ascertain whether men are "of sound religion."* By the 13 Eliz. c. 12, entitled "An Act for the Ministers of the Church to be of sound Religion,"\* it is thus enacted:—

"That the Churches of the Queen's Majesty's dominions may be served with PASTORS OF SOUND RELIGION, be it enacted. . . that every person under the degree of a Bishop. . . shall declare his assent and subscribe to all the Articles of religion which only concern the confession of the true Christian faith and the doctrine of the Sacraments. . . (§. 1.) and that if any person ecclesiastical. . . shall advisedly maintain or affirm *any doctrine directly contrary or repugnant to any of THE SAID ARTICLES*, and being convented before the Bishop of the Diocese or the Ordinary, or before the Queen's Highness' Commissioners in causes ecclesiastical, shall persist therein, or not revoke his error, or after such revocation eftsoon affirm such untrue doctrine, such maintaining or affirming and persisting, or such eftsoon affirming, shall be just cause to deprive such person of his ecclesiastical promotions, &c. . . (§. 2.) and that no person shall hereafter be admitted to any benefice with cure, except he. . . shall first have subscribed the said Articles in presence of the Ordinary, &c. . . (§. 3.) and that none shall be made minister, or admitted to preach, or administer the Sacraments, . . . unless he first bring to the Bishop of that diocese, from men known to the Bishop to be of sound religion, a testimonial both of his honest life, and of his *professing the doctrine expressed in THE SAID ARTICLES*: nor unless he be able to answer and render to the Ordinary an account of *his faith*, in Latin, *according to THE SAID ARTICLES*, or have special gift or ability to be a preacher: nor shall be admitted to the Order of Deacon or Ministry, unless he shall first subscribe to the said Articles."† (§. 5.)

\* This is the legally-recognized title of this Act, by which it is quoted in at least *two* subsequent statutes, viz. 5 Ann. c. 5, and 23 Geo. II. c. 23.

† It may be as well to note here, that the Articles thus recognized by the Statute Law are the *English Articles* according to the translation agreed upon in the Convocation of this year, and by that body presented to the Queen and Parliament. That they were an *English* copy of the Articles is clear from the title given to them in the Act itself. That they were the Articles as revised and translated in this Synod, is proved by the testimony of a writer of that period, the learned Bishop Bilson, appointed in 1596 to the bishopric of Worcester, and translated in 1597 to Winchester. In his Work entitled "The effect of certain sermons touching the full redemption of mankind by the death and blood of Christ Jesus" published in 1599, he remarks, when speaking of the third Article as altered by the Synod of 1562,—"We have public assurance and allowance that their words were and are, *It is to be believed that Christ went down into hell*. Their words in Latin were, you will say, *Credendus est ad inferos descendisse*. But the same Bishops and the same clergy that were

Such is the statute law of the land. The meaning of it, it would be difficult to mistake. But for the sake of any who may need further testimony respecting it, I will add the following illustrations of its meaning and object.

In a decision of "all the judges" in the 23d year of Elizabeth, it was declared that this Act "was made for avoiding a diversity of opinions," and that the prevention of such diversity "was the scope of the statute."\*

We have also a very remarkable document relating to it, drawn up by Archbishop Parker, and presented by him and other Bishops to the Queen, in 1566, when the Bill was first introduced into Parliament, containing their Petition to the Queen to allow the Bill to pass, showing the object they had in view in this measure; which they call, "a Bill concerning *Uniformity in doctrine* and confirmation of certain Articles," &c. Dr. Bennet, in his "Essay on the Thirty-nine Articles," tells us (p. 258) that "there is in the Library of St. John's College, in Cambridge, a rough copy" of this Petition, "interlined with Archbishop Parker's own hand;" and he there gives the Petition at length. From his copy I take the following extract:—

"Secondly, In the Book which is now desired to be confirmed, are

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at the first Synod in the 5th of her Majesty, assembling again in the 13th year of her Highness' reign, did themselves English it as I report it, AND OFFERED IT TO THE PRINCE AND PARLIAMENT IN THOSE WORDS TO BE CONFIRMED, WHICH ACCORDINGLY THAT HIGH COURT DID. So that now not these words, Christ descended into Hades, though they be true as being the original words, much less yours, Christ went to the dead, but precisely these, Christ went down into hell, are THE FAITH AND DOCTRINE WHICH THE CHURCH AND REALM OF ENGLAND PROFESSETH, OR WHICH THE LAW ESTABLISHETH." (pp. 419, 420.) In fact, no English translation of the Articles previous to this had the royal sanction given to it, and therefore none were of any authority. But to this was added, the royal "ratification," that it was "allowed to be holden and executed within the realm" by the assent and consent of the Queen. This English translation of the Articles, therefore, being the copy sanctioned by the Act, it must be considered as the one referred to in the 36th Canon. A further question has been raised as to which of the editions of the year 1571 represents the precise text sanctioned by the Act. A discussion of this point, however, would be out of place here. It has been very fully entered into by Dr. Bennet, in the work already quoted, namely, his "Essay on the XXXIX. Articles," 1715. 8vo.

\* Coke's Instit. Pt. iv. p. 324.

contained *the principal articles of Christian religion, most agreeable to God's word, publicly since the beginning of your Majesty's reign professed, and by your Highness' authority set forth and maintained.* . . . Fourthly, the approbation of these Articles by your Majesty shall be a very good mean to establish and confirm all your Highness' subjects *in one consent and unity of true doctrine*, to the great *quiet and safety* of your Majesty and this your realm, whereas now, *for want of a plain certainty of articles of doctrine* by law to be declared, *great distraction and dissension of minds* is at this present among your subjects, and daily is like more and more to increase."

It appears, then, that subscription to the Thirty-nine Articles was required, because, though they had the Prayer Book, and a subscription to it similar to that now required had been enforced, there was nevertheless "great distraction and dissension of minds," and a "want of a plain certainty of articles of doctrine," and consequently liability in the statements of the Prayer Book to be interpreted in different ways; and of this the Romanists availed themselves, and the Act was therefore especially, though by no means solely, directed against them.\* Consequently, no more dexterous mode of paving the way for the re-introduction of Papistical errors could be devised than that of setting up dogmatical inferences from the Prayer Book as a standard of doctrine to control the true standard, the Thirty-nine Articles, as its authorized interpreter. For though the two Formularies are perfectly consistent with one another, it is obvious, that if private interpretations of the Prayer Book are to be allowed to control the meaning of the Articles, it is open to those who choose to take a Romish view of expressions in the Prayer-book, to *bend* the Articles in the same direction.

There is one more remark which we must make upon this important Statute. It will be observed, that the test of pastors being "of sound religion" is, assent and subscription to "all the Articles of religion which only concern the confession of *the true Christian faith and THE DOCTRINE OF THE SACRAMENTS.*" Now it is well known, that the attempt to raise a private interpretation of a portion of the Prayer Book, with reference to one of the Sacraments, into a standard of faith

\* See Bennet's Essay on 39 Art., pp. 260, 261. Strype's Annals, c. 7, II. i. 104, 105. Bridges's Defence of Government in Ch. of Engl., pp. 1277, 1278.

*overruling the Article on the subject*, is one great source of disquiet and *instrument of oppression* in the Church. But in the Statute, the Articles on *the doctrine of the Sacraments* are especially and pointedly singled out, as *the test* by assent to which soundness of doctrine on those points is to be judged. These words, says Dr. Bennet,\* are added, “to denote that κατ’ ἐξοχήν and in a manner *remarkably full and express* our Church had delivered her sense concerning *the doctrine of the Sacraments*, as the greatness, warmth, and importance of the controversies then on foot required.”

I almost fear that I shall weary the reader, by accumulating authorities on this matter to what he may think an unnecessary extent; but the importance of the subject at this moment must be my apology.

And I shall now add another remarkable testimony of a later date, showing what has all along been considered *the* standard of doctrine in our Church. In the year 1721 were issued by the Crown, “Directions to our Archbishops and Bishops, for the preserving of *Unity in the Church and the Purity of the Christian faith*, particularly in the doctrine of the Holy Trinity.” Now in these “Directions,” the charge given to the Bishops is this;—“That you do, without delay, signify to the clergy of your several dioceses this our Royal command, which we require you to see duly published and observed; namely, That no Preacher whatsoever, in his sermon or lecture, do presume to deliver *any other doctrine concerning the great and fundamental truths of our most holy religion*, and particularly concerning the blessed Trinity, than what are contained in the Holy Scriptures and are *agreeable to the Three Creeds and the Thirty-nine Articles of Religion*.” And it proceeds to direct the Bishops to put in force the provision of the Act 13 Eliz. c. 12, (above quoted,) whereby it was enacted, that persons ecclesiastical “advisedly maintaining or affirming any doctrine directly contrary or repugnant *to the Thirty-nine Articles*” should be punished. But not one word about the Prayer-book occurs from the beginning to the end.† A more direct testimony from the practice of the Church in favor of the proposed clause could hardly be conceived.

\* Essay on the 39 Articles, p. 405.

† See the “Clergyman’s Assistant,” Oxford, 1828, pp. 568, 569.

I should add that a similar direction was issued by William III. in 1695, and George I. in 1714;\* but in these two cases it had relation only to the doctrine of the Trinity. The one I have quoted above refers to "the Christian faith" in general.

Now certainly these "Directions" have no legal force at the present time. But one cannot help remarking, that it would have somewhat startled the divines who advised such Directions to be issued, to have been told that they were "robbing the Church of its most sacred and dearest privilege," and endangering "the essential and fundamental particulars of Christ's saving truth amongst us."

How little, indeed, it was intended that the subscription required to the Prayer-book by Canon 30, should constitute it such a standard of faith as the Bishop of Exeter wishes to make it, is shown by a case that occurred in the reign of James I. *with reference to this very Canon*, by which some light is thrown upon the intention of the Church in this matter. The case was that of Dr. Burges, who having some scruples about the subscription required by that Canon, drew up a paper on the subject, stating the principles upon which alone he could tender his subscription, which was submitted to the King and the Archbishop of Canterbury (the learned and well-known Dr. Bancroft, who, though only Bishop of London at the time, had, through the death of Archbishop Whitgift, acted as *President of the Convocation that passed the Canon*), and by them approved. The account of this matter, with the paper annexed, has been left on record by Dr. Burges himself, in the Preface to his Answer to the Puritan Reply to Bishop Morton's Defence of the innocency of the three Ceremonies, &c. This book of Dr. Burges was published in 1631, by the "special command" of Charles I. He informs us that on the publication of the Canons of 1603-4,—

"Being called to subscription by the Bishop then of Lincoln, soon after the Book of Canons came forth, I was of mind either to refuse subscription, though I had subscribed four several times before without scruple; or else to be assured by the Bishop, mine ordinary, that there was no such *variation in the doctrine or intention* of the Church as myself and others suspected, (by the Book of Canons), but that I might *still understand things as I had before conceived of them*. Here-

\* See "Clergyman's Assistant," Oxf. 1828. pp. 565 and 566.



upon I prepared that *Apology*, intending to give it to the Bishop, wherein I set down in what sense and construction of things I had formerly yielded to subscription, and why I did not think that I could now do so. Always resolving, that if it should appear to me, that there was no such variation as I then suspected, I would then again subscribe, as I had done four several times before that. This Tractate was by occasion first presented by mine Honourable friend Sir Thomas Jermin, Knight, unto the King's Majesty, who *knowing his own purposes of changing nothing in the doctrine and intention of the Church*, took it ill of me, as if I had undutifully imputed to his Highness some close innovation, which I meant not to do."

Having this scruple however, he refused, until satisfied on this point, to subscribe, though deprivation was the consequence. But he adds—

"Afterwards I did *freely subscribe*, after that his Majesty had seen the interpretation of things which I had conceived, and satisfied myself in, and had allowed them, and after that my Lord's Grace of Canterbury that now is, had told me that *they were not my senses, but the very true meaning and sense of the Church of England, whatsoever some men out of the riot of their wits had discoursed*. These interpretations I will subjoin to this discourse, because it may do some men good."

And he remarks, that, upon reconsideration, he found—

"Upon some lighter surmises collected out of the Book of Canons, I did construe things to a worse meaning than I after perceived to be in the Church."

At the end of the account is subjoined the statement presented to the King and the Archbishop, as follows,—

"A particular of those interpretations of some things questioned in the matter of subscription, with which I had satisfied myself in former times, and with which I offered to subscribe the same day wherein I was deprived for not subscribing, which were after presented to his Majesty by the then Bishop of Winchester [the learned Bishop Bilson], and after to my Lord's Grace of Canterbury [Dr. Bancroft], *upon which I was restored to my ministry*.

"To the first Article, concerning his Majesty's Supremacy, and the third, *concerning the Articles of Religion agreed on in the Convocation House, &c. I do willingly AND ABSOLUTELY SUBSCRIBE*.

"To the second Article, viz. That there is nothing contained in the Book of Common Prayer, the Book of Ordination of Bishops, Priests, and Deacons, in the two Books of Homilies, *contrary to the word of God*, I do also willingly subscribe, if I may have leave to satisfy myself



in such interpretation of some things questioned, as may stand with the words of subscription, and things subscribed to, in manner following."

Then follow *ten* heads of interpretation, of which it seems unnecessary to trouble the reader with the whole, but I select the following as showing the spirit of them:—

" 2. Concerning the Apocrypha Scriptures appointed to be read.

" I undertake by subscription to acknowledge, that the reading these, (which is all the Book requireth), not as canonical, but as Apocrypha books for instruction's sake, so far as they accord with the Canon, is lawful.

" 3. Concerning the rites and ceremonies required by the Book, as the use of the surplice, cross in baptism, kneeling in receiving the communion, in general.

" I undertake not by subscription to determine how well these be imposed, but only to acknowledge, that the *use* [his own italics] thereof upon his Majesty's command, and that in the best construction of them, is lawful."

" 8. AS FOR OTHER PHRASES OF DOUBTFUL CONSTRUCTION, I TAKE THEM IN THE BEST SENSE, AND SO SUBSCRIBE TO THE BOOK OF COMMON PRAYER.

" 9. Of the Book of Ordination of Bishops, Priests, and Deacons.

" I conceive that subscription to this Book doth not intend an approbation of every phrase, or application of every place of Scripture therein alleged, as fitly applied; but only that the Calling of Bishops to govern in the Church, and the Ordination of inferior Ministers by them to the uses there assigned, are not contrary to the word of God, and so I subscribe to that Book.

" 10. Of the two Books of Homilies.

" I undertake not to approve of every phrase or allegation of Scripture, as fitly applied to the mind of the Holy Ghost: but that *dogmatically* [his own italics] there is nothing delivered in those Homilies, that I know to be contrary to the word of God, but that they may lawfully and profitably be read to the people for their edification, when better means are wanting: and in this sense I subscribe to those Books also."

" *These interpretations,*" he adds, "*King James accepted, and my Lord's Grace of Canterbury affirmed them to be THE TRUE SENSE AND INTENTION OF THE CHURCH OF ENGLAND.*"\*

\* An answer rejoined to a Reply to Dr. Morton's General Defence of Three Noient Ceremonies, &c. By Dr. John Burges. Published by his Majesty's special command. London, 1631. 4to.

Now to quarrel with this exposition of the meaning and intent of subscription would be to bite a file. It is an exposition sanctioned by the very Sovereign and Primate that passed the Canon. What is the conclusion to be drawn from it? Clearly that the way in which the Bishop of Exeter and others are using the Book of Common Prayer, is unauthorized by the subscription required by the Church. In fact, in a large work containing a long series of devotional Formularies, it is almost impossible that there should not be phrases or portions fairly *open*, to a certain extent, to different doctrinal interpretations; and no prelate of our Church has a right to lay it down as a requisite to the exercise of the ministry, that the words shall be understood in the sense he affixes to them, and no other. But to do this in points where the Church herself has proclaimed her doctrine with dogmatic precision in her own standard of faith, and *maintain that agreement with the doctrine so delivered is insufficient* (as those who object to the proposed clause are doing), is to make the laws and decisions of the Church bow to the arbitrary will of an individual.

Once more; the character of the Articles, and the relation in which the Prayer-book stands to them, are very clearly shown in another work of great authority in our Church, "An Exposition of the Thirty-nine Articles," published in 1607, by Thomas Rogers, Chaplain to the same Archbishop (Bancroft), and dedicated to the Archbishop.

In the Preface to this work, the Articles are constantly spoken of in these terms;—"The Articles, or Doctrine of our Church," "the Articles, or public Doctrine of our Church." (§ 17, 18.) And by them, "there is now," he says, "*an uniformity likewise of doctrine* by authority established." (§ 29.)

And so full does he consider them to be, that he says of the Propositions he deduces from them in his work,—“There is not a heretic or schismatic (to speak of) of any special mark, that, from the Apostles’ time hitherto, hath discovered himself, and his opinions vulgarly in writing, or in print, against our Doctrine, but this heresy, fancy, or phrensy, may be here seen against one Proposition or other. The sects and sect-masters, adversaries unto us, either in the matter or main points of our Doctrine or Discipline, to one of our Articles or other, wholly or in part, which here be discovered to be taken heed of and avoided, are many hundreds.” (§ 37.)

*And endeavouring to meet the difficulties of those who had*

scruples as to the subscription to the Prayer-book, he expressly tells them that *the doctrine of our Church is to be judged by the Articles*. But as this goes to the very root of the matter now in question, and his testimony is as precise as it is important, I must trouble the reader with a quotation of the passage in full.

“I have four times subscribed (saith a brother)\* to the Book of Common Prayer with limitation and reference of all things therein contained (not unto the purpose only, or Doctrine only) but unto the purpose and Doctrine of the Church of England. Yet cannot the same man with a good conscience so much as once more subscribe, (which formerly, and that with a good conscience, had subscribed four times). His reason is, Because the purpose, if not Doctrine of our Church, (to which he referred his subscription) appeareth to him by the late Canons, Book of Conference, and some speeches of men in great place, and others, to be varied somewhat from that which he before (not without reason) took it to be. *The purpose of our Church is best known by the Doctrine which she doth profess ; THE DOCTRINE BY THE THIRTY-NINE ARTICLES ESTABLISHED BY ACT OF PARLIAMENT ; THE ARTICLES BY THE WORDS WHEREBY THEY ARE EXPRESSED ;* and other purpose than the public Doctrine doth minister, AND OTHER DOCTRINE THAN IN THE SAID ARTICLES IS CONTAINED, OUR CHURCH NEITHER HATH, NOR HOLDETH, *and other sense they cannot yield than their words do impart.* The words be the same, and none other, than erst and first they were. And therefore the sense the same, the Articles the same, the Doctrine the same ; and the purpose and intention of our Church still one and the same.” . . . “ If the premises sufficiently explain not the constancy of our Church’s purpose in professing religion sincerely, then cast we our eyes upon the Propositions which she publicly maintaineth ; and if we find them the same which ever they have been, then need we not doubt (the Brethren themselves being judges) but the Articles again, their sense, the Doctrine, Purpose, and Intention of the Church of England (the Proposition interpreting, as it were, the said Articles) is the very same it ever was. Now that Propositions (pregnantly and rightly gathered, and arising from the Articles) be the same, and for substance unaltered (though upon good considerations some few be added to the former), and all of them approved for true and Christian by the lawful and public allowance of our Church, the Book here ensuing plainly will declare, and so demonstrate withal not the Doctrine only, but Intention also of our Church to be the same and not changed ; and being un-

\* The reference is evidently to the case of Dr. Burges, (just mentioned). written when he was in doubt about subscribing.

changed, the Books then of Common Prayer and of Ordination too, considered in the purpose and intention of the Church of England, and reduced to the Propositions (as the Brethren would have them) be well allowed and authentically approved ; and the said Brethren with as good conscience now again and afresh may subscribe unto all the Articles, [i. e. Articles of the Canon,] even concerning the Book of Common Prayer and of Ordination, as well as of the King's Supremacy, and of Religion, as afore, often, and always they did.' (§§ 34—36.)\*

I will close these extracts with two from Bishops Burnet and Hall.

"It has been often reckoned," says Bishop Burnet, "among the things that were wanting, that we had not a full and clear explanation of the Thirty-nine Articles, which are **THE SUM OF OUR DOCTRINE AND THE CONFESSION OF OUR FAITH.**"†

"The Church of England," says the excellent Bishop Hall, "in whose motherhood we have all just cause to pride ourselves, hath, in much wisdom and piety, *delivered her judgment concerning all necessary points of religion in so complete a body of divinity as all hearts may rest in. These we read, these we write under, as professing not their truth only, but THEIR SUFFICIENCY also.* The voice of God our Father, in his Scriptures, and (out of them) the voice of the Church our Mother, **IN HER ARTICLES**, is that which must both guide and settle our resolutions. *Whatsoever is besides these, is but either private, or unnecessary and uncertain.* Oh that while we sweat and bleed for the maintenance of these oracular truths, we could be persuaded to remit of our heat in the pursuit of opinions. These, these are they that distract the Church, violate our peace, scandalise the weak, advantage our enemies. Fire upon the hearth warms the body, but if it be misplaced burns the house. My brethren, let us be zealous for our God ; every hearty Christian will pour oil and not water upon this holy flame. But, let us take heed lest a blind self-love, stiff prejudice and factious partiality impose upon us, instead of the causes of God."‡

From the facts and documents, then, which I have now placed before the reader, I draw the following, as it appears to me, obvious conclusion ; that while the assent required to the Articles pledges their subscribers to certain definite doctrines,

\* The Faith, Doctrine, and Religion Professed and Protected in the Realm of England, &c., expressed in Thirty-nine Articles, concordably agreed upon by the Bishops, &c. &c. London, 4to. Numerous editions. The 1st in 1607. The edition used above is that of 1661.

† Exposition of the Articles, Pref. *init.*

‡ The Old Religion, &c., by J. Hall, Bishop of Exon (Exeter.) London, 1628. 12mo. Epistle Dedicatory.

*so far as their plain meaning and literal and grammatical sense extend,\** (the precise dogmatical nature of their statements giving them a certain fixed meaning, to which the clergy are bound) the subscription to the Prayer-book, (as a work of a different character,) purposely leaves it open, **SO FAR AS THE ARTICLES HAVE NOT DETERMINED ITS MEANING**, to different doctrinal interpretations, *saving only* that it must be held to contain, *according to that view which the conscience of every man directs him to take of its meaning*, nothing contrary to the word of God; the Thirty-nine Articles being esteemed a sufficient guard for orthodoxy. The system of our Church thus is, Uniformity of doctrine agreeable to the Articles, Uniformity of worship agreeable to the Prayer-book. The wisdom of the Church in this appears to me to be manifest. For in any other case, the peace of the Church might be continually disturbed, and the clergy harassed, by perpetual conflicts on points which, after all, the Church has not dogmatically defined. In fact, an internecine war might be carried on between parties taking different views on certain subjects, as little profitable to the cause of truth as creditable to the party *producing* it.

Am I, then, here advocating liberty being granted to the Ministers of the Church to give or withhold their assent to the Prayer-book as accordant with Holy Scripture? Far from it. The proposed clause does not touch in the slightest degree any subscription now required to the Prayer-book. The Prayer-book will remain in the possession of all the authority which can now *legally* be attributed to it.

By the 36th Canon, all Ministers will still be required at ordination, institution, &c., to testify by subscription their belief that the Prayer-book "containeth in it nothing contrary to the word of God, and that it may lawfully so be used." Any man, therefore, who believes that any portion of the Prayer-book conveys unscriptural doctrine, will be bound at once to retire from a ministry which he can only lawfully exercise through the instrumentality of a subscription to the contrary effect. And if he does not do so, and attempts to propagate his view of the un-

\* Bearing this in mind, it might be well if the following words were added to the proposed clause, "the Articles being understood in their plain meaning and literal and grammatical sense." This is in accordance with the Royal Declaration prefixed to them.

scriptural character of any portion of the Prayer-book, he will still be most justly amenable to the Ecclesiastical Courts as one who is violating his subscription and breaking faith with the Church. But this is a totally different thing from men being compelled by a Bishop to take precisely his view of the doctrine inculcated by each part of it, even on points in which the doctrine of the Church is formally and dogmatically laid down in her own publicly accredited Confession of faith, especially where that Confession seems to point in a different direction.

To require subscription to all the dogmatical propositions which a Bishop may choose to raise out of the Prayer-book, is to erect a new, uncertain, variable standard of faith, which may be one thing at one time, another thing at another; one thing in one diocese, the opposite in the next.

And he who does it, may fairly be asked, what authority our Church has given him to impose such a yoke upon the necks of the clergy.

The great truths of Christianity are clearly and distinctly laid down in the Thirty-nine Articles. Let us be content with that standard. For my own part, I must add, that the more I consider the matter, and observe the doctrine of those who take an opposite view, the more I feel convinced that those who are desirous of *adding* to this standard, on the points treated of in it, something else as the standard of interpretation, are only desirous of placing the Articles in the same condition as Scripture is placed by the adherents of "tradition;" and it is remarkable that these two parties have, to say the least, a very close affinity to each other.

It is of course quite open to unscrupulous controversialists to assert, that the wish to make the Articles the standard of doctrine in the manner proposed, arises from disbelief in the doctrine of the Prayer-book. And the remark comes very well from a quarter which, while professing adherence to the Church of England, publishes articles in favour of the Jesuits, and blames the Pope for *sacrificing* them.\* The true question, however, on which the merits of the clause depend is, Whether it is desirable or not to give power to those who take *one* view of the mean-

\* See the "Guardian" Newspaper of April 12 and 26. Those who wish to see the real dangers to which our Church is exposed from some of her professed adherents, will do well to look over a file of this Newspaper.

ing of portions of that Book, to harass and *drive out of the Church* those who, while adhering *bond fide* to the Articles, take *another* view of it. *And recent proceedings in the Church have rendered it necessary that this question should be at once decided.* How far some parties are likely to be more *conscientious* than their opponents in the interpretation they give to the Book of Common Prayer, is a question which may be safely left to the public to decide. One great advantage, however, has already arisen out of the discussion produced by this clause. We are told that those who do not hold what is *called* the High-Church doctrine of baptismal regeneration, wish the clause to pass, in order that being thus left at liberty (such is the veracious representation adopted) to believe or disbelieve the statements of the Prayer-book, they may be safe from further molestation.\* *One consequence, then, inevitably follows from this view of the case, namely, that it is admitted by the advocates of this doctrine that it is not contained in the Thirty-nine Articles.* There is no possible escape from this conclusion. And consequently, any charge to the contrary effect from those who have announced this to be their judgment, is altogether inadmissible. The complaints of the Bishop of Exeter against the clause are perfectly suicidal.

There is much, indeed, in the way in which this clause has been met, which is very instructive.

The storm of indignation with which a proposal has been greeted, whose sole effect is to protect the clergy from the illegal violence of those who are attempting to set up an unauthorized standard of faith of their own, to control and override the Church's standard, is of itself an argument of the strongest kind in its favour. Not that it will produce, I firmly believe, the slightest *alteration*, theoretically, in the law; for the notion that one whose doctrine on the subject (for instance) of justification or baptism is in accordance with that of the Articles, is to be driven out of the Church by a Bishop because he gives a different doctrinal interpretation to some portions of the Prayer-book on those points from the Bishop's, may be left without fear to be dealt with by any *competent* Court of Law. But the importance of the clause lies in its being a formal, public, *express*

\* See "Guardian" for April 26, and other like-minded publications.



recognition of the principle, that the Thirty-nine Articles are the Church's supreme standard of faith in all points there treated of, and so being calculated to prevent attempts to erect another unauthorised standard of faith to *control* that which alone the Church has sanctioned.

So far from its introducing a "new test of heresy," (as it has been charged with doing,) or altering the standard of doctrine in our Church, its tendency is merely to establish and place upon a firmer footing the present intentions of the law both of Church and State. It does nothing but put a restraint upon those who are seeking to erect a standard of faith of their own, as the test of orthodoxy in our Church, in the place of the Church's own standard; *and to drive out of the Church all who do not adopt it.*

Let it be considered, what would be the *consequences* of permitting such a power to be exercised by the Bishops as that now claimed by the Bishop of Exeter. It will not be pretended, that in the very point in question, in the case of most recent occurrence in the diocese of Exeter, all those *now* upon the Episcopal Bench are agreed. What, then, is to prevent those who take a different view from the Bishop of Exeter making the standard of faith in *their* Diocese accordant with *their* views? The Bishop of Exeter maintains that *his* doctrine of baptismal regeneration is the doctrine of the Prayer-book, and refuses ordination and institution to those who will not adopt it. Others equally entitled to decide upon such a matter, maintain that such a doctrine is *contrary* to the doctrine of the Prayer-book. Are there none upon the Episcopal Bench who agree with them? They might therefore with equal reason refuse ordination and institution to all who agreed with the Bishop of Exeter. Is this a state of things to be admitted in the Church? And though an appeal to a Court of law may decide an individual case, it will not decide the *principle* out of which such cases arise.

The controversy now raised has several points of similarity with that which has been so lately brought before the public on the rule of faith. The Tractarians, with many of the Romanists, were willing enough to call the Scriptures the rule of faith. But then, said they, the question is, How is this rule to be interpreted. We contend, that "tradition" is the authorized interpreter; and that Scripture is only to be understood in the



meaning which "tradition" has given to it. The next step was, to take that portion of the remains of antiquity which suited their views as "tradition." And then the thing required was done; their point was gained; and in a much cleverer way than by deposing Scripture from the station of authority which the common sense of mankind tells them belongs to it. So in this case, the Articles may be admitted to be the standard of faith, (though our opponents seem hardly inclined to admit even as much as this,) while if a Bishop is permitted to raise another, and especially a controlling standard of faith *on the same points*, by making his own dogmatical inferences from other sources the authoritative interpreter of the Articles, the Articles may be made, practically, anything but the standard of faith.

In fact, if the Articles are allowed to be thus controlled by inferences drawn from the language of the Prayer-book, they will become,—as Scripture has been made when allowed to be similarly controlled by tradition,—a nose of wax which will turn in any direction.

As forcible a way, perhaps, as any of illustrating this matter to the general reader will be, by following it out into its practical bearings, and showing very briefly how the system objected to would work if consistently carried out.

For instance. the point in question in the case just alluded to, is the doctrine of baptism. The Bishop, deducing his doctrine from the Prayer-book, takes the same view of the Baptismal service as the Dissenters delight in doing; and not only does he take this view, but he says *practically*, So far as my power extends, no one shall remain in the Church whose belief on this point is not precisely the same as mine. Now let us take another case. The Burial service proceeds upon exactly the same principle. Thanks are given to God in the case of every one that is buried that it has pleased God to *take unto himself* the soul of our dear brother departed, and that He has delivered him out of the miseries of this sinful world; that is, the service proceeds upon the supposition that the person being buried was a true believer, a faithful servant of Christ. And the Dissenters, interpreting it on the same principle as the Bishop of Exeter applies to the Baptismal service, declare that we maintain in this service the salvation of all we bury. Now, interpreted according to the principle which the Bishop of Exeter and others affirm to be the only honest principle of interpretation for the Baptismal

service, what do the words used mean? Clearly, that the person buried, having never been excommunicated by the Church on earth, and that what she binds on earth is alone bound in heaven, and what she looses on earth is alone loosed in heaven, is necessarily accepted by God. What is to prevent, then, another Bishop taking his stand upon this ground, and demanding adhesion to this doctrine as a qualification for the ministry? And in this case he would have stronger grounds to go upon, because there is no express Article upon the subject. If a minister of the Church may justly say, The promises of God render it necessary, that every child upon its admission by me into the Church by baptism should be then and there, without fail, regenerated by the new-creating and sanctifying influences of the Spirit of God, why should he not also say, The promises of God render it necessary that those whom I have allowed to remain in the Church should be saved?

We are informed by the Bishop of Exeter himself, in his published Letter,\* in reply to Mr. Gorham, that he proposed to Mr. Gorham, in the first instance, five questions *as the test of his orthodoxy*, to which he required "categorical or brief" answers; the last three of which questions were the following,—

- " III. Does our Church hold, and do you hold, that every infant, baptized by a lawful minister, with water, in the name of the Father, and of the Son, and of the Holy Ghost, is made by God in such baptism a member of Christ, a child of God, and an inheritor of the kingdom of heaven?
- " IV. Does our Church hold, and do you hold, that such children, by the laver of regeneration in baptism, are received into the number of the children of God and heirs of everlasting life?
- " V. Does our Church hold, and do you hold, that all infants so baptized are born again of water and of the Holy Ghost?"

The mode of examination here adopted is as pregnant a proof as could well be afforded of the dangerous character of the power claimed by the Bishop in such matters. As an illustration of this, let us place by the side of these questions, three others, formed in a similar way, to be replied to by "categorical or brief" answers.

Does our Church hold, and do you hold, that in the case of

\* See the "Guardian" of April 26th.

every person buried by a lawful minister, it has pleased Almighty God to take unto himself the soul of that person ?

Does our Church hold, and do you hold, that the bodies of all such persons are to be committed to the ground in sure and certain hope of the resurrection to eternal life ?

Does our Church hold, and do you hold, that for all such persons we ought to give thanks to God that it hath pleased him to deliver them out of the miseries of this sinful world ?

Or, to take the same subject as that treated of in the Bishop's questions, but with reference to *adults* instead of *infants*, I would propose the following questions for a categorical answer, arising, as the reader will at once see, out of the service for the baptism of *adults*.

Does our Church hold, and do you hold, that every adult baptized by a lawful minister with water, in the name of the Father and of the Son and of the Holy Ghost, is made by God in such baptism "regenerate ?"

Does our Church hold, and do you hold, that such persons "have by baptism put on Christ," and been "made the children of God and of the light by faith in Jesus Christ ?"

Does our Church hold, and do you hold, that all adults so baptized are born again of water and of the Holy Ghost ?

Or, again, (for it is well to show fully what the principle contended for by the Bishop of Exeter opens the door to,) let us take another subject. The absolute and unqualified declarations in the "Ordination" and "Visitation of the Sick" services are well known, and also the doctrine which *some* among us have maintained to be *expressly* laid down in them. On some other occasion, then, the following questions may be proposed for categorical replies.

Does our Church hold, and do you hold, that whosoever's sins are remitted by any Presbyter of our Church, are remitted to him by God, and whosoever's sins are retained by any Presbyter of our Church are retained to him by God ?

Does our Church hold, and do you hold, that every sick person ministered unto according to "the Order for the Visitation of the Sick" by any Presbyter of our Church, is absolved from all his sins ?

From these additional applications of the principle adopted by the Bishop of Exeter, every reader will, I think, be able to *see its true character*. And the question is this, Is every Bishop *of the Church* to have the power of making his own interpreta-

tion of the passages of the Book of Common Prayer referred to in these questions, (and they might easily be multiplied,) the test of orthodoxy in those who apply to him for ordination and institution?

To say that such cases must all be left to the decision of the Courts of law, is practically a refusal to permit any check to be placed, in ninety-nine cases out of a hundred, upon this illegal attempt to erect a new and anti-Protestant standard of faith.

But further, in the Thirty-nine Articles we *have* certain distinct and definite *dogmatical* propositions *laid down by the CHURCH itself*, to which *a categorical answer of assent is due*, because they are *dogmatical propositions*.

For instance, in the 11th Article we have a *dogmatical* statement, than which nothing can be more definite, that the doctrine "that we are justified by faith only, is a most wholesome doctrine and very full of comfort." And to this *proposition, as it stands*, our assent is required, as to a definitely stated dogma.

But how is this treated? In just the opposite way. The definite dogmatical statements of the Articles, which need no interpreter, are to be interpreted (or, explained away) by language used in the other Formularies, as Scripture is to be *explained* by tradition; and by a process of reasoning drawn from these aids, it is *clearly* proved that "faith only" means faith and something else, at any rate faith *and baptism*.\*

\* This is sometimes done by a reference to the Baptismal service, but more frequently perhaps by a process of this kind. The words of the 11th Article are,—“We are accounted righteous before God, only for the merit of our Lord and Saviour Jesus Christ by faith, and not for our own works or deservings: Wherefore, that we are justified by faith only is a most wholesome doctrine, and very full of comfort, as more largely is expressed in the Homily of Justification.” I suppose no reader can peruse these words without seeing that the proposition,—“that we are justified by faith only is a most wholesome doctrine, and very full of comfort,”—is here laid down definitely and distinctly, and that the Homily is referred to merely as further illustrating *this doctrine*, not to give it the power of limiting or qualifying this dogma. And we shall shew presently that so it must be understood. But a long Homily of course gives a chance of discovering some words which shall throw a cloud over the clearness of this statement for the convenience of those who dislike it. And so it happens, that while the general doctrine of the Homily, (the Homily of Salvation,) taken as a whole, fully confirms and illustrates the doctrine so clearly stated in the Article, there occur in the course of it the words “baptized or justified.” This is enough. The words are assumed to be equivalent, and the definite proposition of the Article is to be *explained* by the Homily, and so “faith only” does not mean *faith only*, but something else.

And thus, by a convenient jumble of all the Formularies of the Church together as the standard of faith, so that the plain statements of the Articles may be interpreted, or rather explained away, by language necessarily open *to a certain extent* to different doctrinal interpretations, and at the same time categorical assent required to certain propositions raised out of that language, no one finds any difficulty in framing a test of orthodoxy to his own mind.

To adduce proofs that this system has been adopted is, I conceive, altogether unnecessary. And, without necessity, it is not desirable to parade before the public, for the purpose of refutation, statements made by parties whose remarks, even where we may see reason to dissent from them, ought to be tenderly and respectfully handled. But the question remains, *and a most serious and important one it is to the peace and welfare of the Church*, Is this system to be allowed to be established? Is it to be the test of orthodoxy for all applicants for ordination, licence to a curacy, and institution to a living? Is the enormous power thus assumed, to be quietly left in the hands of the Bishops?

To say that the clergy have their remedy by an appeal to a Court of law, if the deductions are unsound, is a mere mockery. How many of them can afford it? How many will have the

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Now, in the first place, the reference in the Article to the Homily is not to give it the power of explaining the *sense* in which the dogma laid down in the Article is to be understood. For words which occurred to this purport in the Article, as drawn up in the time of Edward VI. by Cranmer (the author also of the Homily in question), were *struck out of the Article on its revision in 1562*. The words of the Article of Edward VI. were these, "Justification by only faith in Jesus Christ, *in that sense as it is declared in the Homily of Justification*, is a most certain and wholesome doctrine for Christian men." It was natural for Cranmer to refer thus to his own Homily—one drawn up, let us observe, when he was just *commencing* the work of reformation. But the substitution at the revision in 1562, of the words which now stand in the Article, is a very *pointed* proof that it was not then thought fit that the Homily should be *so* referred to. Further, the general doctrine of the Homily (to which alone the 35th Article pledges us) fully agrees with the dogma so clearly laid down in the Article; and consistently with that general doctrine must these words be understood. Nor do the words, standing alone, answer the purpose for which they are alleged. For why is the word "or" to be interpreted as indicating the necessary *identity* of the two states signified by the words "baptized" and "justified," and not in its ordinary sense of a connective particle?

perve to undertake it? Moreover curates are almost wholly in the power of their diocesans. Further, are the Ecclesiastical Courts to be called upon to decide points raised by inferential reasoning out of Formularies neither intended nor calculated to be a standard of faith?

The more the matter is considered, the more, I am convinced, will it be seen and felt by unprejudiced men, that the ground taken by the Church is that which wisdom dictates. Full assent to the dogmatic propositions delivered in the Thirty-nine Articles (which include, be it observed, Holy Scripture and the three Creeds) is absolutely required, and the maintenance of doctrine of a contrary kind is punishable. Doctrinal soundness then to that extent is, as far as the law *can* secure it, assured to us. Further, a belief that the Prayer-book contains nothing contrary to the word of God, and may lawfully be used, is demanded in order to insure an upright and conscientious use of it. But authority is not given to any one to raise dogmatic propositions out of it according to his own view of its meaning, and enforce assent to those propositions on the clergy.

And it is of no little consequence to the peace both of the Church and the country, that the question now raised by the course which has been pursued by the Bishop of Exeter, should be at once determined by public authority.

The consequences arising out of the allowance of such a system as that here objected to, are *imminent*; nay, the Church has been for some time suffering from them. The case now before the public, of recent occurrence in the Diocese of Exeter, is but one of many similar cases. Few have come before the public, because it does not often happen that there is either pecuniary ability or nerve to resort to a legal appeal, and the case of curates is almost without a remedy of any kind. And unfortunately it is not in one diocese only that *the principle* involved in the cases here alluded to has been acted upon. The contrary is notoriously the case. A deliberate attempt is being made in various quarters to force a new and unauthorized standard of doctrine on the Church in certain points, which, if it be not promptly met, must lead to serious results. In several dioceses, while there has been on the one hand an illegal *relaxation and neglect* of the law for the benefit of Tractarian and Romanising teaching and practices, (I allude now particularly

to the widely permitted restoration of Popish furniture into our churches), there has been, on the other, an equally illegal *straining* of it for the erection of private standards of faith as tests of orthodoxy in the clergy, serving the same purpose.

The clause, therefore, is one of great and growing *importance*. It is no imaginary and merely possible evil against which it is intended to guard us.

But it is time to notice more expressly the *objections* urged by the Bishop of Exeter against the clause, although the remarks I have already made are alone, I believe, a sufficient reply to them. They may all be briefly summed up in this argument; that under such a clause, propositions directly contrary to the teaching of the Prayer-book might be set forth with impunity, "if it should happen that they be not with sufficient plainness and precision contradicted in any of the Articles," and while the Bishop assures us that he *does* believe "that the Articles, rightly understood, are in no instance *contrary* to the teaching" of the Prayer-book, (language worthy of remark), he thinks "that subtle expositions may in many particulars be devised, which would make the words of the Articles susceptible of interpretations utterly at variance with the catholic truth as taught in" the Prayer-book.

Now the most ordinary reader cannot fail to remark here the singularity of contending, that the necessarily looser and more ambiguous language of the Prayer-book should be made the interpreter of the meaning of certain precise dogmatic statements of the Articles, instead of the plain statements of the Articles being taken as the interpreter of any thing ambiguous in the Prayer-book. It could hardly fail to strike him, that there must be some object in view, not attainable by the ordinary course of argument in such matters, to lead to this inversion of the more natural mode of proceeding in such a case. And it is obvious, that, of the two, the Prayer-book must be much more susceptible of "subtle expositions" than the Articles. And consequently that if it was left to the ecclesiastical authorities to control the meaning of the Articles by their expositions of the words of the Prayer-book, great scope would be left for such "subtlety" to turn the Church's standard of faith in any direction.

And I cannot but remark here, that the alarm and indignation



manifested by the Bishop of Exeter on the subject of the Articles being made the supreme standard of faith, show most clearly his own sense of the weakness of his appeal to them in certain favorite points. If the Articles in their plain meaning and literal and grammatical sense (in which alone they are binding) support his doctrine, why all this outcry? If they do not, why accuse those who differ from him of contradicting them?

His Lordship attempts to support his argument by a reference to the famous Tract 90. I believe no allusion could be more unfortunate. For never perhaps was the unbending character of the Articles more fully proved to the public than by that unscrupulous *attempt* to explain them away.

And further, the real question is, not what any individual may think desirable in the matter, or what consequences any one may imagine would flow either from the concession or negation of such a power, but whether the Church has vested such a power in the hands of her authorities. And fortunately for her peace and welfare this question must be answered in the negative. There may be those who may consider it very inconvenient that they are not allowed thus to make their own interpretations of the Prayer-book a standard of doctrine by which all are to be judged. But the Church has judged otherwise. It is expressly declared in the Royal Declaration prefixed to the Articles, that they are to be interpreted in their "plain and full meaning," and "literal and grammatical sense;" and to that only the clergy are bound; not to the sense any individual chooses to affix upon them by inferences drawn from other sources.

Why was this course adopted? Clearly that the terms of conformity might not be unnecessarily straitened. Articles were drawn up with great care and precision on all the great points of the Christian faith; calculated, it was considered, to prevent diversities of opinion respecting them, and to produce "consent touching true religion." To these unfeigned assent was required; they were to be interpreted in their plain and full meaning and literal and grammatical sense, and any one maintaining doctrine contrary to them was to be punished. And with these precautions the Church was satisfied, as far as the positive belief of her clergy was concerned. She did not demand more as a necessary requisite for the exercise of the



ministry. *The dogmatic statements of the Articles, (which include the three Creeds) she evidently considered sufficient to render it desirable to make them, with Holy Scripture, the LIMIT beyond which no man should be absolutely required to go, in order to remain in the ministry of our Church.* This view it is the object of the clause in question to confirm, establish, and enforce.

Quite agreeing, then, with those who would consider the Houses of Parliament a very inappropriate arena for a theological debate, and a very incongruous expositor of truth for the direction of the clergy of the Church of England, I cannot but think nevertheless, that the matter upon which they will be called upon to decide, in voting on this clause, is one which may fairly be left to the judgment of any honest man acquainted with the facts of the case. Whether the doctrines of the Prayer-book and Thirty-nine Articles are right or wrong, or what constitute the fundamental and essential particulars of Christ's saving truth, are points altogether distinct from the question which will be before them. The question for them to decide will merely be, whether it is not an act of justice to the Church to prevent one party in it attempting to thrust out another by erecting a standard of faith of their own beyond and above the Church's *own* standard of faith in the Thirty-nine Articles. It is not, strictly speaking, a question of doctrine at all. And the proceedings of the Bishop of Exeter, to say nothing at present of what has taken place in other dioceses, have rendered it necessary that this matter should be speedily decided. For though in the case more immediately before the public his decision may be overruled, the *principle* he has advanced will remain to be dealt with. Whatever, indeed, may be the character of the precise view of doctrine maintained in that case, (a question with which I do not meddle,) the standard by which it has been judged is an illegal standard; and thus much must be acknowledged by all parties, that the sole question to be determined in all such cases is, whether the doctrine held is consistent with a fair and honourable subscription.

To speak of the clause as an interference on the part of Parliament with the faith and doctrine of the Church, as some parties are doing, is a misrepresentation quite in accordance with the whole character of the Tractarian movement.

Before I conclude, I think it desirable to notice one other

point connected with the Bishop of Exeter's Letters on this subject, as the public might by a hasty perusal of them be seriously misled.

The Bishop assures us, that this clause was "not adopted by the meeting of Bishops," and writes a second Letter to state that it "was not proposed by any Bishop as himself favouring it," which has been magnified by a writer on the subject into the broad and distinct statement that it was "rejected by the Bishops," a conclusion to which the words above quoted might perhaps lead willing minds. There will, however, be many, I think, who will feel a desire for a little more information as to what really did take place at that Meeting of Bishops, before they draw any such conclusion from the words of the Bishop's Letters. That those Letters should have been met by a dignified silence on the part of the other Bishops that were present on that occasion, is only what was to be expected. But those who like to have some data for the conclusions they draw, will greatly feel the need of further light upon the subject before they make up their minds what view other Bishops may take of the clause. They will think that it would have been better, on *many* accounts, if the Bishop had given them either more information or none at all; either the whole case or no part of it. What he has given leads only to conjecture, and a wide field is open. What, if the clause was not discussed, so as to elicit the views of those present, at all? What, if circumstances arose which seemed to render it desirable that the discussion, if commenced, should be immediately dropped? The feelings of *one* of those present towards the clause are now on record from his own pen. There may reasonably, then, be some misgivings as to the reception given to the clause *upon its very announcement*. The public will probably be inclined to wait, *and it certainly will be well for them to do so*, before they take the view which a hasty perusal of the Bishop's Letters might incline them to adopt. More it is unnecessary to say at present on this point.

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Since writing the above, my attention has been drawn to some remarks in the British Magazine, founded on a singular misapprehension of the legal effect of the clause. The writer says: "To make the Thirty-nine Articles the legal test of

heresy would be a very serious change indeed in our ecclesiastical law. . . . The erection of the Thirty-nine Articles into the test of heresy (*which, in fact, is all one and the same as adding them to the Creed*), would be to follow the example of Rome," &c.; as if the clause made *everything heresy* which was contrary to any statement contained in the Articles.

How the writer could have conceived that such would be the effect of the clause proposed, it is difficult to imagine. Its object is to provide, that nothing shall be adjudged heresy, *or* false or unsound doctrine, in any point treated of in the Thirty-nine Articles, that is not contrary to the doctrine of the Church of England as there declared; by which a *limit* is placed upon what is to be considered *either* heretical *or* unsound doctrine. There is here no *identification* of all unsound doctrine with heresy, but the contrary. However, if any one is nervous on this point, it would be easy to relieve him of his fears by leaving out the words "heresy or" in the clause, which would leave it intact as far as its principle and object are concerned.

That the clause does not assign the exact limits of heresy, and define what shall be considered heresy, and what only unsound doctrine, is perfectly true; and if it had attempted to do so, it would have probably opened the door to endless disputes.

The Bishop of Exeter holds, that even with the Thirty-nine Articles, which include (a fact which the writer in the British Magazine has forgotten) the three Creeds (one of which, the Nicene, was held by the antient Church to contain all the fundamental points of the Christian faith) we should still lack some of "the essential and fundamental particulars of Christ's saving truth." How therefore parties are to agree in defining precisely what is heresy, and what only unsound doctrine, not amounting to heresy, it is difficult to see.

But when the writer adds, "In the Church of England the Thirty-nine Articles are *the test of orthodoxy*. They are *the standard* by which conformity to the doctrine of the Church of England is measured," he is taking precisely the ground for the maintenance of which the clause in question was evidently drawn up.

## APPENDIX

*Containing remarks on some Addresses and Petitions which have been agreed to in conformity with the Letter of the Bishop of Exeter.*

It was not to be expected, that the appeal of the Bishop of Exeter (whose proceedings are, no doubt, deeply affected by the clause in question) to the Church, should remain unanswered. And accordingly we have already Addresses to the Throne, and Petitions to the Houses of Parliament agreed upon in meetings in the Diocese of Exeter, and Forms for the same purpose in circulation for any who choose to avail themselves of them. In fact, certain parties have commenced an agitation which might lead a stranger to suppose, that instead of the Church's ~~own~~ standard of faith being about to be established upon a firmer footing, an attempt was being made to give the Church a death-blow. The fatal wound, however, will be found on inquiry to be directed not against the Church, but only the "unprotestantizing" party within her. That a loud outcry would be the consequence, was of course to be expected. Still one might have expected, that for their own credit's sake they would have taken care not to approach the Throne and the Houses of Parliament resting their cause upon palpable blunders. A little special pleading might have been expected, and all due allowance made for it. But that abecedarian blunders should form the staple of such documents is hardly pardonable.

Now, how far those who have taken the lead in this movement are able to guide the public mind to a right decision upon it, may be judged of by the following extracts from the Addresses and Petitions which they have adopted.

In an Address to the Queen, first inserted, I believe, in the Guardian Newspaper of April 12, and copied thence in the English Churchman of the next day, and again published in a Tract for general circulation, entitled "An Appeal to the Laity," &c. (evidently written by one utterly unacquainted with the facts of the case about which he is writing), and which therefore seems to be a favorite, Her Majesty is presented with the following authorities against the clause,—

"We have heard with deep alarm that it is in contemplation to alter *the present Statute law of England*, whereby, in the first year of the reign of her Majesty Queen Elizabeth, it was decreed, that nothing should be adjudged to be heresy, except that 'which heretofore hath been so adjudged by the authority of the first four General Councils, or by some other General Council wherein the same hath been declared heresy by the express words of the said Canonical Scriptures, or such as hereafter shall be adjudged to be heresy by the High Court of Parliament of the Realm, with the assent of the Clergy in the Convocation.'

"By the Canon concerning preachers in the 'Book of certain Canons of Discipline of the English Church,' passed in the 13th year of the same Queen's reign, it is enacted, that nothing shall be taught as necessary to be religiously held and believed, except what is agreeable to the doctrine of the Old and New Testament, and what the Catholic Fathers and ancient Bishops have collected from that same doctrine."

And then follows a deprecation of the clause on these grounds.

Now, so far from the clause here quoted (and which is not even correctly quoted) from 1 Eliz. c. 1. being "the present Statute law of England," it was repealed more than two centuries ago; and moreover, while it remained unrepealed, it only applied to the proceedings of the High Commission Court; and all that could be said as to its application to the proceedings of a Diocesan Court, even at that time, was what Lord Coke said of it, "Albeit this Proviso extendeth only to the High Commissioners, yet seeing in the High Commission there be so many bishops and other divines and learned men, it *may serve for a good direction* to others, especially to the Diocesan, being a sole judge in so weighty a cause." (3 Inst. 4, as quoted by Gibson, Codex, p. 351.) But what even if it *was* the law? Can it be maintained for one moment, that what is not contrary to any one part of that Confession of faith which is contained in the Thirty-nine Articles, (which includes, be it remembered, all the three Creeds,) deserves the name of heresy? that authority is to be conceded to a Bishop, to visit with the punishment due to *heresy* that which cannot be so characterized? Then indeed is the Clause indispensably necessary, necessary to a tenfold degree, for the protection of the Clergy. And certainly, when we recollect that in the opinion of one of the present Prelates of our Church, the Articles are insufficient for the preservation of what *he considers* the essential and fundamental truths of Christianity, its importance can scarcely be too highly appreciated.

With respect to "the Canon concerning preachers," I have already (pp. 12, 13, above,) placed the *whole* of this Canon before the reader, and therefore he is in a condition, without my adding one word, to judge of the character of the fragmental quotation here made from it.

Of the Petition to the Houses of Parliament it is unnecessary to say much, as it consists almost wholly of loose and declamatory statements, proving only the dislike of the Petitioners to the proposed clause. One sentence, however, it may be worth while to give. "That it admits of a grave doubt, whether, to establish such a test of 'heresy or false or unsound doctrine,' as is contemplated in the above proviso, be not virtually to repeal the Act of Uniformity." The reader, who has seen in the preceding pages what the provisions of the Act of Uniformity are, will need no comment upon this "grave doubt." Indeed it may fairly be asked of one who could quote the clause of 1 Eliz. c. 1. (above cited,) as the present statute law of the land, whether he ever read the Act of Uniformity, or whether, like too many, he has jumped to his conclusion from the few isolated words of the Declaration contained in it *disconnected from their context*.

But further; these blunders actually seem to be the sole grounds they have to rest their cause upon. For I find again that the only references made in another quarter are two of those just disposed of.

In a long address to the Bishop of Exeter, agreed to by a portion of the clergy,\* present at a meeting of the Archdeaconry of Totnes, convened in obedience to the Bishop of Exeter's Circular to his Archdeacons, the authorities against the clause are thus stated:—

\* Forty-two out of a meeting of nearly ninety; fifteen having supported an amendment approving of the clause, and about thirty remaining neutral. (See the Plymouth, &c. Herald for April 29.)

"We know that by the statute, 1 Eliz. c. 1, which statute is still the Law of the Realm, it is decreed, that nothing shall be adjudged to be heresy, except that which heretofore hath been 'so adjudged by the authority of the Canonical Scriptures, or by the first four General Councils, or any of them, or by any other general Council wherein the same was declared heresy by the express and plain words of the said Canonical Scriptures, or such as hereafter shall be ordered, judged or determined to be heresy by the High Court of Parliament of this realm, with the assent of the Clergy in their Convocation.'—

"Also, that by the Act of Uniformity xiv. Car. c. 2, [sic], it is provided that every Priest of the Church of England, who shall be at any time presented to any benefice or promotion within the realm, shall within a certain time declare his 'unfeigned assent and consent to all and every thing contained or prescribed in and by the Book of Common Prayer, and administration of the Sacraments and other Rites and Ceremonies of the Church, according to the use of the Church of England, together with the Psalter,—and the Form or Manner of making, ordaining, and consecrating of Bishops, Priests, and Deacons.'—

"We believe that any Proposition, limiting what is to be adjudged heresy, or false or unsound doctrine, to the standard of the 39 Articles of 1562 alone, would directly contradict and repeal the provisions of those acts of Elizth. and Charles II., by which all the members of the Church of England, whether Clergy or Laity, are bound, and which, under God's blessing, have been special means of preserving to us in their purity the essential doctrines of our most Holy Faith."

On this statement, having already shewn the character of the authorities quoted, I will only remark that it would have been well both for themselves and the Church, if the gentlemen who adopted this address had taken a little more care to ascertain that they really *did* "know" the facts of the case. In the present day there is no apology for such blundering in men that come forward to take the lead in agitating the Church upon an important subject. With the remainder of the Address it is unnecessary to trouble the reader, as it consists merely of declamatory and unfounded statements, which the documents I have adduced in the preceding pages altogether refute.

At the same meeting an Address to the Queen was agreed upon, in which all argument is conveniently summed up in the following statement, that "the Ritual, Liturgy, and Catechism of the Church of England," "always have been hitherto held and *by law declared to be (together with the said Thirty-nine Articles) the safeguard against the existence and admission of erroneous teaching in the Church.*" But surely it is very hard upon her Majesty, and scarcely respectful, that she should be left to find out *where* "the Law" has made this declaration. And if, as may reasonably be supposed from the other Address adopted at this meeting, "the Law" is rather a *terra incognita* to the authors of these Addresses, it would not have been too much to expect that they should have obtained some little advice from those able to inform them what "the Law" is, before they asked their brethren to commit themselves to their exposition of it; and especially before they approached the Throne to volunteer information to her Majesty on the subject.



**A VINDICATION**  
**OF THE**  
**“ DEFENCE OF THE XXXIX. ARTICLES**  
**AS THE**  
**LEGAL AND CANONICAL TEST OF DOCTRINE**  
**IN THE CHURCH OF ENGLAND,**  
**IN ALL POINTS TREATED OF IN THEM.”**  
**IN REPLY**  
**TO THE**  
**RECENT CHARGE OF THE LORD BISHOP OF EXETER.**

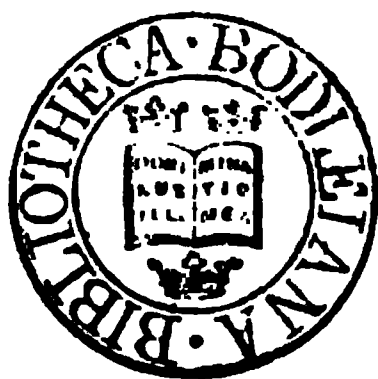
**BY**  
**WILLIAM GOODE, M.A. F.S.A.**  
**RECTOR OF ST. ANTHOLIN, LONDON.**

**LONDON :**  
**J. HATCHARD AND SON, 187, PICCADILLY.**  

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**1848.**





VINDICATION  
OF THE  
"DEFENCE OF THE XXXIX. ARTICLES," &c.

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WHEN a Bishop's Charge to the Clergy of his Diocese is turned into a violent polemical pamphlet, no apology can be needed from the party assailed for meeting it with a Reply. Under ordinary circumstances such a publication might, no doubt, fairly be considered as having some claim to exemption from criticism. And no one would be more unwilling than myself to offer any unnecessary strictures upon a Bishop's expression of his views when giving his counsel and advice to his Clergy. But it is quite clear that the recent Charge of the Bishop of Exeter can lay no claim to exemption from remark on the part of the author of the "Defence of the Thirty-nine Articles."

That "Defence" was written in reply to the note of alarm sounded by his Lordship to the Clergy, on the proposal to obtain a Parliamentary *recognition* (a *declaratory* enactment, giving a gentle hint to those otherwise unwilling to recognize *the fact*) of the Thirty-nine Articles being the formal and authorized standard of doctrine of our Church on all the points of doctrine treated of in them. It is unnecessary to touch on the history of the proposal, or in what way his Lordship became acquainted with it. The Bishop evidently considers the whole Church his peculiar care, and that it can safely be trusted in no other hands; that it is his special

duty to *preside* over its interests, and take care *ne quid detrimenti capiat respublica*. And it was his happiness to be able, by his privilege of access to the confidential meetings of his brother prelates, to sound the trumpet of alarm to the Church at the earliest possible period after the appearance of the danger. It seems by the account of the matter which his Lordship has given to the world, that the proposal was mentioned at one of those meetings, as one which was likely to be made in the course of the Clergy Offences Bill through Parliament; and mentioned (as far as at present appears) without alarm, which no doubt rendered the danger more urgent.

His Lordship, therefore, having most kindly, and without solicitation, taken the Church under his paternal care, felt that not a moment was to be lost in rousing the Clergy to a sense of their danger; and certainly his trumpet gave no uncertain sound when it called them to the battle, as one in which the Church's "most sacred and dearest privilege," nay, "the essential and fundamental particulars of Christ's saving Truth amongst us," were at stake.

He commences, therefore, that portion of his Charge to which I have now to offer a reply, by congratulating his clergy upon "the strenuous resistance declared by them to this *most dangerous* measure;" and pathetically observes, "It painfully reminds us of the unhappy contest which two hundred years ago *filled our land with violence, made desolate our Zion, and threw down our altars.*" (p. 7.)

There are indeed several points of similarity, though, thank God, others of great *dissimilarity*, between the present and that unhappy period. Then as now, a large party in our Church were straining every nerve, and using all means, to engraft upon our Protestant Church and Protestant Formularies doctrines and usages abhorrent from the spirit of those martyred saints to whom, under God, we are indebted for them. And were the same power now in the hands of that party as was then possessed by them, it is not improbable that results might ensue very similar to those which characterized that era; an era in which the lawlessness of tyranny, both in Church and State, on one side, generated a more than

equal lawlessness on the other, and plunged both Church and State into one common ruin.

With his Lordship's Congratulations to his Clergy on their response to his trumpet-call upon them to protest against the proposal thus made to "rob the Church of its most sacred and dearest privilege," &c. &c., (which I am sure must have thrilled the hearts of many a village pastor throughout his diocese, ready to do battle to the last for his Church against such atrocious attempts) I will not meddle, except to regret that, for the sake of the credit of the Church, they did not take care to avoid committing themselves to such marvellous blunders as *pervaded* all their addresses ; and which seem to have had a fatal effect upon their vitality, it being very remarkable how few survived the exposure of them, and ever reached their purposed destination.

The spirit in which his Lordship addresses himself to the task of discussing what has been said in favour of the proposed clause, may be judged of by the quotation I have already given from his Charge. The successors of those who once "filled our land with violence, made desolate our Zion, and threw down our altars," can hardly be expected to be treated by his Lordship with much consideration ; and certainly to one charge, that of endeavouring to put down "altars," I must plead guilty, (believing that we have no material sacrifice to offer), though I hope I am not chargeable, even in the *tendency* of my actions, with filling the land with violence, or making the Church desolate.

How far the crusade against that portion of the clergy usually called Evangelical, upon which his Lordship has now confessedly entered, with the view of exterminating them from the Church, has a tendency in that direction, I will leave to others to judge. At any rate, it must be admitted that his Lordship is not backward to take the field ; and if it should so happen that the proposal which has brought him there was rendered necessary by his own previous hostilities against that portion of the Clergy, in contravention of the laws of the Church, it must also be granted that the initiative in this forthcoming scene of violence and desolation was not taken by the supporters of the proposed clause.

But will it really fill the land with violence and desolate our Church, if his Lordship is obliged to take the Thirty-nine Articles as our Church's standard of faith in the points upon which she has there delivered her sentiments? On which side then will the violence be? The supporters of the clause have not yet unfurled the flag of war, nor have *they* threatened to do so.

But the reader must know that there have been great discoveries made among us recently on the subject of "Church principles." It is an age of discoveries and inventions, and it must not be supposed that the Church was to be distanced in this race. Accordingly it has been discovered that there is a marvellous similarity, nay, identity, in the doctrines of our Church and those of the Church of Rome, in points on which our forefathers had ignorantly supposed that there was a great difference. Now the presence in the Church of the Clergy of whom we have just spoken is highly inconvenient for the carrying out of these "Church principles," and therefore the Bishop has given them summary notice to quit. They do not hold "Church principles," therefore how can they honestly remain in the Church? They ought to go voluntarily, his Lordship tells them, and, if they were honest men, would do so, (see p. 48, &c.) without making any disturbance about it.

And *some* discoveries which have been recently made on this head are so remarkably described in a recent publication of the Bishop's party, that I cannot refrain from quoting the statement there made on the subject.

"They [i. e., "Pearson, Sanderson, Gunning and others"] were the persons who, either directly or indirectly, fixed the formularies of the Church of England at their present standard: and our readers do not need to be informed, that the doctrines of the Church as settled after the conference at the Savoy, were IN MANY ESSENTIAL POINTS DIFFERENT FROM THOSE OF THE REFORMATION OF THE SIXTEENTH CENTURY. We have in our day witnessed the signal failure of an attempt to impose a particular sense upon the Thirty-nine Articles—viz., *the sense in which they were originally drawn up or supposed to be drawn up.* Now the sense which the proposers of this test intended to fix upon the Articles is certainly not the sense that the Parliament of 1661, or the Divines of that period, intended them to bear. People may reasonably be at issue as to the sense in which Cranmer, Jewel, Ridley, and Latimer understood the Articles; neither will they find much to satisfy their doubts after reading *the con-*

*fused and often contradictory statements to be found in the works of the reformers; but we will venture to say that the opinions of the Divines of the Restoration, on essential points, are quite unmistakeable. We have the testimony of Whiston (certainly a most unexceptionable witness to such a point) as to THE ENTIRE CHANGE OF TONE with regard to one set of doctrines, and one portion of the Articles, 'I remember,' he says, (Memoirs, p. 11) 'my father's observation on Mr. Hoard's book concerning God's love to mankind, as the first that began to set aside the Calvinists' unhappy scheme of election and reprobation, in England, which till then was the current opinion of the members of the Church of England, as it is still the doctrine of her Thirty-nine Articles.'* Now here is a statement of a most unprejudiced person as to a matter of fact, viz., *the entire change of opinion on the subjects treated of in those articles, which have caused most difference of opinion in our Church.* And to whom, we ask, is this change due, but to those Divines to whom was afterwards intrusted the revision of the Prayer Book, who might if they had so pleased have rejected the Articles altogether,—who certainly were opposed to the Calvinistic scheme, but who retained the Articles in spite of the expressions contained in them, from which many then did, and still do, deduce the doctrines of the school of Geneva. The same observation may be applied to the doctrine of justification by faith, and many other doctrines in which there was a manifest change of opinion in this country between the periods of the accession of James I. and the Restoration. And in this, be it remembered, it is not conceded except for argument's sake that the original sense of the Articles, i. e. that in which they were intended to be understood by their framers, was really Calvinistic on the point of Election, or Lutheran on that of Justification, or heterodox in any particular. WE HAVE OUR OWN OPINION ON THIS POINT: but what we now say is, that *it does not matter at all what was the sense of their framers, or whether they attached any intelligible meaning to their words.* What has been said of two statutes in which there is any real or apparent inconsistency, viz., that *the latter explains the former, and if necessary SUPERSEDES IT,* applies in this case. There was, IF SO BE, no great difference of opinion between the Bishops of the time of the Reformation and the Divines who remodelled the Liturgy at the Restoration. If there was not, there is no difficulty in the case; the former spoke obscurely, the latter plainly: if there is such difference, we contend that we are bound by the latter—and in either case the anti-Catholic view of the Articles, we mean the view which is inconsistent with the writings of Hammond, Pearson, and Gunning, and with the opinions of Sheldon, Morley, and Wrenn, *has really no ground to stand upon.*" (Eccl. Jul. 11.)

I will not add one word to this very remarkable and instructive passage, except to remark that there are some who think themselves entitled to go back beyond the divines of the Restoration to those by whom our Church was fixed upon her present foundations, and that we feel obliged to the author of this passage for bearing a testimony so just as to the

change of tone which has taken place in the current theology of our Church ; while we beg leave to differ from his conclusion that our Reformers, their views and their productions, have been authoritatively SUPERSEDED.

But, as I have said, it cannot be expected that the successors of those who trampled under foot Church and King in the great Rebellion, should be considered by his Lordship as having much character to lose. And so we find it. At least an infinitesimally small portion of moral character seems to be left to one who is "disingenuous, fraudulent, and dishonest," (pp. 24, 30, 48), uses "Old Bailey" pleas, (p. 17), whose "mental vision" "is of a very peculiar kind," and "his faculties of moral perception still more extraordinary," and "can see honesty in a course from which most minds would instinctively withdraw," (p. 65), and is one of a party whose consciences, it is strongly insinuated, are "seared or seduced by considerations of temporal convenience or other unholy motive," (pp. 56, 57), and are persons with whom Jesuits have from the first had much in common, (p. 44). One would not quite have liked to appear before his Lordship as the presiding judge in the Star Chamber with such impressions upon his mind. Now certainly there was a time when I might have felt rather warmly about such language ; but time and experience, and, I hope, other causes, have rendered me somewhat indifferent to such attacks. I have generally found them to be characteristic of a bad cause, or at least of a state of mental excitement little favourable to the perception of truth. In a good cause the mind is generally satisfied with a calm, or at most an earnest, statement of the facts and arguments by which it is supported ; while in a bad one there is a continual temptation to substitute abuse for argument.

The charge, by the way, of dishonesty, (p. 65) from a *supposed* (though not granted) change of view in the course of six years, as to the precise place to be assigned to the Liturgy among the Formularies of the Church, strikes one as rather singular, because we have heard of conversions occurring in the course of a *very* much shorter period, and of a much more remarkable kind, in which, however, I think his Lordship would not be very ready to admit the justice of such an accusation ;

and as it respects "temporal convenience," I will say no more than that I submit it to his Lordship's own consideration, whether he has found the contrary doctrine to that of which he complains to have been ordinarily the most unprofitable of the two.

But enough of this. I leave such topics to his Lordship, and proceed at once to his arguments and authorities.

The Bishop commences (p. 9) with a complaint as to the title of my pamphlet, that I should have called it a Defence of the Thirty-nine Articles, inasmuch as he does not think that he said "a single word *against* the Articles" in his Letter respecting the proposed clause on them. Of course he did not, seeing that by the 5th Canon he would have been *ipso facto* excommunicated if he had thus *directly* attacked them, and I do not for a moment suppose that he will voluntarily put his head into such a noose as that. But there are various ways of doing the same thing. There is the undermining method, where the grounds upon which the value of a thing rests are removed from under it; there is the colouring method, where white is made to appear black or grey; and there is the go-by method, where a thing is passed over and denied the place and office which it was intended to fill. And against all these modes of attack do the Thirty-nine Articles need in the present day a Defence; of which the first and last have been, in my humble apprehension, very remarkably exemplified in the treatment those Articles have experienced at the hands of his Lordship.

The Bishop next animadvert on my calling the Thirty-nine Articles the "sole confession of faith" our Church has put forth. I beg to ask what *other* authoritative confession of faith she has. The Catechism, though doubtless a dogmatical work, is only "an instruction" to be learned by children; not a confession of faith put forth by the Church to ensure soundness of doctrine in her clergy, and to be a testimony of her faith to the world. But the Bishop actually denies that they were intended to be "a confession of faith;" and presses the title, that they were put forth "for the avoiding of diversities of opinions, and for the establishing of consent touching true religion," apparently inferring (for there is here, as might be



expected, a little obscurity) that therefore their only object was to settle points then in controversy. Now as it respects the point in question, the doctrine of baptism, it would be quite sufficient for our purpose if it were so, for (notwithstanding the Bishop's extraordinary denial of the fact) it is notorious that between Romanists and Protestants, and also between foreign Protestants among themselves, there was great controversy on this matter. But it is not so. This was not their *only* object, though an important one which they had in view. I shall not now repeat the authorities I have elsewhere given (see Defence) on this head from Rogers (Archbishop Bancroft's Chaplain) and Bishops Hall, Burnet, and Tomline; but I ask his Lordship whether he intends to set up his or any authority on this point, against that of Archbishop Parker himself, who expressly says (see Defence, p. 18), that in the Articles are contained "the principal Articles of Christian religion." Further; among the documents given by Strype under the year 1562, just before the convocation of that year, is one entitled, "General notes of matters to be moved by the Clergy in the next Parliament and Synod." The author of it is not known, but the paper contains marginal observations by Archbishop Parker himself. Among these notes occurs the following,—"*Certain Articles, containing the principal grounds of Christian religion, are to be set forth (in the which ALSO is to be determined the truth of those things which in this age are called into controversy) much like to such Articles as were set forth a little before the death of King Edward; of which Articles the most part may be used with addition and correction, as shall be thought convenient.*" (Strype's Annals, c. 27, i. 1. 474.) It would really be a waste of time to add more on this point. Be it a perfect or imperfect confession, it is the only formal authoritative dogmatic confession of faith we have.

But the clause that has given rise to this controversy is evidently carefully worded, so as not to exclude points of doctrine which may not be determined there; but the denial of which may be inconsistent with the subscription required to other Formularies. Nor, I must add, does it shut out *reference* to other Formularies in the way of *subordinate* illus-

tration of any *language* used in the Articles. The representations which have been made to a contrary effect, are merely the angry misrepresentations of those who, wishing to make the Articles subordinate and subservient to their interpretation of the Liturgy, are anxious to get rid of a clause which attributes to them their rightful place and authority.

I pass on to the next statement. It having been laid down that the Articles say next to nothing, and therefore are no standard of faith, on points not then in controversy, it remains of course for his Lordship to show, (to enable him to do away with the importance of the Article on baptism), that there was a general agreement on the doctrine of baptismal regeneration at that time; and, accordingly, we are presented with the following astounding statement, containing the most extraordinary blunder which I ever recollect to have met with in such discussions. When I first read it in the report of the Charge in the newspapers, I had supposed it hardly possible that, if his Lordship was unconscious of it, his friends would have failed to have pointed it out to him before the publication of the Charge. But no; there it is, fifteen times delivered to the Clergy of his Diocese in a period of about two months, and now deliberately published by his Lordship himself.

“ Now at the time when the Articles were first compiled, in 1552, and even ten years afterwards, when they assumed their present form, the point on which of all others there was the least of difference either between us or even the German Protestants, and Rome, was the doctrine of *Baptism* to which this *Defence of the Articles* is mainly directed. [The doctrine of Baptism was not discussed at all in it.] On that all were in the main agreed—the voice of controversy was almost or altogether unheard. Look at the formularies set forth in this country during the reign of Henry VIII., in all of which Cranmer, the compiler of our Articles, had the principal hand; look at the early confessions of faith of foreign Protestants, the Helvetic, that of Augsburg, the Saxon, the Belgic, and the Catechism of Heidelberg—ALL THESE, ON THIS GREAT PARTICULAR, AGREED NOT ONLY WITH EACH OTHER, BUT WITH ROME ITSELF. Of Baptism, every one of them asserted the cardinal doctrine of its being the blessed instrument by which God worketh in us spiritual regeneration.”

A note upon which passage adds, “ *That by the Sacraments ex opere operato grace is conferred, may be affirmed, if it be understood, that it is God who worketh by them.*” (pp. 10, 11.)

Hear it, Dr. Wiseman : Rome and the Calvinists were perfectly agreed on the doctrine of baptismal regeneration. Or rather, for the credit of our Church, hear it *not*. Why, it is enough to make the earnest and zealous authors of some of these Confessions (the Helvetic, the Belgic, and the Catechism of Heidelberg) rise from their graves, to hear such a statement made.

And this blunder is a very remarkable and instructive one. It shews the extent of his Lordship's knowledge on the very subject on which he is here thundering his dicta with the self-confidence of one who thinks himself infallible, and denouncing all who differ from him as a set of dishonest rogues. I need hardly inform those who are but moderately read in the subject, that the utmost which three at least of the Churches here referred to admitted was, that in baptism regeneration always took place in the case of those whom they would have described as "the elect." This was a very common view in the Reformed Churches. But whether they held this view or not, all who held that baptism was more than a sign, hesitated not to speak of it in such terms as were applicable to it when its proper effects were realized, but which they believed to be realized *only* in certain (and those comparatively very few) cases. His Lordship (utterly unacquainted, as it appears, with their views) points to this language as shewing their *agreement with Rome and himself*; giving, by the way, a remarkable proof of the dangers to which such phraseology exposes the doctrine intended to be conveyed by it.

And herein his Lordship has supplied his opponents with as forcible an argument in defence of their position as could well be found. For he says, in effect,—Look at all these Confessions, and you will see that they say exactly what our Church says as to the doctrine of regeneration in baptism. Precisely so, we reply; and as it is a matter of notoriety that the authors of some of these Confessions meant nothing like the view which your Lordship has affixed to them when using that language, so we affirm that the language of our own Church has been similarly, however unintentionally, misinterpreted by your Lordship; and both your Lordship *and others* may see, by this example, how easy it is to be very

self-confident in such a matter, and at the same time very grievously in error. The fact is, that too many of those who are attached to his Lordship's system of theology—and others, alas, also—are so little versed in the writings of the Reformers, that they are unacquainted with the real spirit and meaning of their phraseology, and hence no doubt has arisen this extraordinary mistake.

And the conclusion from it is that, therefore, "our 27th Article 'of baptism' having little to controvert, expressed the same doctrine briefly, without contemplating an adversary." A most ingenious mode certainly of accounting for an Article not giving expression to his Lordship's view. The Bishop has found out that every body (speaking generally) at that time took his view of the matter, and therefore it was quite unnecessary that the Article should assert it, because no adversary was contemplated.

The reference to these Confessions and the 27th Article at once leads his Lordship away from the abstract question of the standard of doctrine in our Church (which only, with the exception of some incidental remarks, was discussed in my pamphlet) into an argument on the doctrine of our Church on the subject of the effects of baptism. And as his Lordship has, both here and elsewhere in the Charge, chosen to interweave the two questions together, I am quite willing to meet him on both. But I propose *on the present occasion* offering but a few remarks on the passages that refer to the latter question, *reserving the full discussion of that point for a future publication*. My answer now will be more particularly directed to the question of the character and authority of the Thirty-nine Articles, and the censures directed against the "Defence" of them.

It may be well, however, to offer *some* observations at once upon his Lordship's statements on the *former* point, according as they may happen to come before us in his Charge. A few words, then, here as to his argument from the Articles.

We have already seen that his Lordship admits that the Article does not impugn the doctrine he opposes, and he endeavours to account for this by asserting that at that period everybody agreed with him, and so it was unnecessary.

I am afraid that I have already irrecoverably disturbed this happy dream. But I cannot resist the temptation of adding another testimony upon the subject from one whose evidence I believe his Lordship will respect; I mean his own Chaplain, Mr. Maskell, who, about the same time that his Lordship put forth an argument in favor of his view from there really having never been any controversy (to speak of) on the subject, was urging another in behalf of the same view from the fact that the point was *very much controverted*.

After observing that denials of his doctrine of regeneration in baptism had been made in earlier times, but with small success, he adds,—

“It was not until the sixteenth century that *rejection of it*, as a doctrine, was at last ESTABLISHED; amidst the uproar which inevitably accompanied the Reformation. . . . Then, at last, the weakened and divided Church gave way: she could no longer repress, as of old, with the overwhelming condemnation of an œcumenical council the errors of her *rebellious children*;\* and so they took root, and quickly spread and strengthened amidst the ruins of fallen churches; NOURISHED AND TENDED BY GREAT NAMES, AUTHORITIES OF THE TIME, ON WHOM MEN FONDLY LEANED.”†

“Denial of the doctrine of regeneration in baptism did not spring up after the middle of the sixteenth century; after, that is, the first alterations which took place in our service-books and formularies. Long before the time of the Puritans of the Commonwealth, or of the days of King James and Elizabeth,—before Whittaker and Fulke, Cartwright or Travers; before even their great master Calvin:—there were writers who had taught the same doctrine with them; this, perhaps, not with the help of the numerous supports which was given to their successors, but still with *an openness and perseverance amply sufficient to make their opinions well known*; and, whether worthy of it or not, TO BE DELIBERATED UPON AND EITHER APPROVED OR CONDEMNED.”‡

And, having subjoined some extracts proving this to be the case, he adds,—

“We learn, then, from these extracts out of writings both before and contemporaneous with the revision of the ritual of the Church of England, and her *expositions of doctrine set forth during the sixteenth century*, the existence of a *definite system of teaching upon the effect of, and upon the blessings conveyed by, reception of the sacrament of baptism*. This system had been over and over again condemned by councils, both diocesan and provincial, of the English [i. e., Anglo-Romish,] Church; it was

\* The reader will observe these words.

† Maskell on Holy Baptism; pp. 356, 357.

‡ *Id. ib.*; p. 362.

plainly opposed to the rituals which had been in use from the beginning ; it had been still *insisted on, enforced, and spread*, by men who nevertheless believed in the correctness of it, and that it was not contrary to the truth as contained in Holy Scripture and held by the primitive Church ; lastly, *as a system, it was known to, and understood by, those to whose judgment the alterations which it would be wise to make in the ancient service-books were committed.*"\*

And he then proceeds to construct this argument in favor of his view from this fact.

If those who settled our Formularies had intended to condemn my doctrine of Baptismal Regeneration they would have given distinct expression to that condemnation in the Articles, not (apparently) seeing that his argument has at least equal force in the mouth of his opponents, and that their admitted vagueness makes the balance at least incline in their favour.

Thus the Bishop says, there was no controversy at all on the subject at that time, and therefore it was not thought necessary to express my view in the Article. His Chaplain says, it is an historical fact that there was and had for many years been much controversy on the subject, and therefore the Article would have distinctly condemned my view if it had been disapproved of. We might well reply,—Agree upon your facts, and then we will meet your conclusions. But let us note where they *do* agree, for their agreement is very remarkable ; for (whether they are willing to *state* it or not), the construction of their argument shows that they see that the Article does not give *expression* to their view. And on this point let us again hear Mr. Maskell bewailing its ambiguity and even tendency to mislead.

"If," he says, "there had never been any of the unhappy disputes upon regeneration which have so miserably divided our Church, this Article might well have been looked on as a sufficient statement of her judgment as to that doctrine, and to be necessarily interpreted in strict accordance with her often-repeated decisions in former ages. But it is *not to be denied* that there were, even at that time, 1562, men of *powerful influence* who held *low and imperfect views of the grace of God, as conveyed to man in and by His sacraments* ; and it was a period also, when, in order both to gain some and to retain others, *wide and dubious expressions* were sought for rather than plain distinct and dogmatic assertions, which no man could misinterpret or mistake, of catholic truth. Hence *we cannot wonder* that opposite parties have appealed to the 27th Article, each in support of its

\* Id. ib. ; pp. 375, 376.

own views. Wherefore we can scarcely regard it as a definition of the sacrament of baptism, *even though there was evidence that it was ever intended to be so.* The last clause, *if it means anything*, as it stands in the English version, is a truism, *and not to be connected with the preceding.*"\*

Such is Mr. Maskell's account of this Article. And I must now beg the reader's particular attention to the explanation given by Mr. Maskell to the last clause, in order to make the Article at all consistent, (even in his own view,) with the doctrine of his school. The last clause clearly attributes the grace received in the sacrament to the effect of the prayers offered, not to the mere repetition of the words of baptism. Of this Mr. Maskell says,—

"Nor need we insist now upon the Latin '*vi divinæ invocationis*,' or inquire whether the phrase may not originally have had respect *not to prayer*, in its common acceptation, but *to the appointed Form in this Sacrament* [! !] in which sense it is correct enough. Let us take it, I repeat, as it is in the English; and it certainly does seem to be a mere truism, *and not to be connected with the preceding part of the Article.* For if it is *to be so connected*, it might be argued (whether fairly or unfairly upon such an *obscure sentence*, against other evidence to the contrary) that the Church of England has approved of the HERETICAL NOTION that prayer is essential to the valid administration of the Sacrament of baptism. It is *not to be denied*, that in books of about the same period, the sixteenth century, traces are to be discovered of this opinion; as for example, in the *Reformatio Legum*; a work which (we cannot be too thankful) is not of the slightest authority, and now serves only as a record of some of the extremes, both in faith and practice, into which our Church was upon the verge of being betrayed, if events had not been OVERRULED TO A BETTER END BY THE POWER OF THE ALMIGHTY, [i. e. through the death of Edward, and the accession of the wretched persecutor Mary putting an end to Cranmer's designs for the settlement of the Church]."<sup>†</sup>

A more painful specimen of the shifts and contrivances to which those who hold such doctrines are reduced, to explain the Articles according to their views, I do not remember to have seen. After an insinuation that the words *invocationis divinæ* in the Latin Article might be made to refer to the words "I baptize thee," &c., which it is clear they could not, as there is no invocation at all in them, (not to mention that the English translation of the Article was put forth by the same persons who originally agreed to it in Latin in 1562), it is boldly asserted that the last clause, which forms an integral part of the

\* p. 18.

† pp. 25, 26.



Article, is NOT TO BE CONNECTED WITH THE PRECEDING PART. And the reason for this monstrous absurdity, is, that if it was so connected, it would give encouragement to a notion which Mr. Maskell is pleased to pronounce *heretical*. Argument upon such a statement as this would be a mere waste of time. And he goes on with amusing coolness to admit, that “traces” (as he calls it) of this “heretical notion” are certainly to be found in books of the same period as the Articles; and “FOR EXAMPLE, IN THE REFORMATIO LEGUM,” which work he seems hardly to know how sufficiently to condemn. Is he really unconscious that this work was one upon which Cranmer bestowed much time and attention; and that (though not its author) it was carefully reviewed by him, and received its final corrections from his hands? I will only ask, then, if Cranmer was a heretic, what is Mr. Maskell? And while he thus speaks of the very book which received Cranmer’s approbation at the period at which the Articles were drawn up, and repudiates it as giving any light to the meaning of the Articles, he has the hardihood to refer to the works published by Cranmer at a previous part of his career, during the reign of Henry VIII., when his *general* views of doctrine, at least, were notoriously different, as showing what the Articles mean, and even to speak of them as Formularies of *our* Church. “It will be necessary” (he says) “to refer to one or two books published early in the 16th Century, if we would rightly understand both the Article and the Catechism.” And then he refers to those semi-Popish documents, the Articles of 1536, the Institution of a Christian man, and the Necessary doctrine and erudition, (p. 19), which he scruples not to call elsewhere by a phrase which, to say the least, is greatly calculated to mislead an ordinary reader, the Church of England’s “earlier formularies.” (p. 350.)

In this course he is closely followed by the Bishop of Exeter, who supports his interpretation of the 27th Article mainly by the semi-Popish works just referred to, maintaining (with vague references, which do not prove the point), that “Cranmer’s opinions on this point never changed,” (p. 14), though we have just seen that Mr. Maskell asserts that there are traces of direct *heresy*, (as he considers it), on this very point, in his “Reformatio Legum,” drawn up just about the same



period that the Articles were put forth. His Lordship's statement, therefore, that it "will be plain to every one who has at all enquired into the state either of opinions or of facts at the time when the Article was composed," that his interpretation of it "must have been the intended meaning," (p. 13) will not, I suspect, have *much* weight, until he has shown himself rather better acquainted than he has hitherto proved, or will presently prove, himself to be, with "the state either of opinions or facts" at that time.

With respect to Cranmer, and the documents his Lordship has here referred to, the extracts from Jewell, &c., with other kindred matters, I shall not now enter farther into the discussion of them, as they will more properly fall into that more full consideration of the matter which I have undertaken.

There is one quotation, however, which I will deal with at once. His Lordship tells us that he has another authority, of which he says, that it is "IMPOSSIBLE NOT TO SEE" that his doctrine is maintained in it. Here is a passage, he says, from Nowell's Catechism, sanctioned by a Canon of 1571. By all means let us hear Nowell's statement, and I will tell his Lordship where Nowell got it from, (almost *totidem verbis*), and a very large proportion of his Catechism besides. His Lordship is little aware of the source of the language to which he refers. The reference is as happy as his reference to the Calvinistic Confessions of faith. I give the whole extract, though, as will be seen, his Lordship's reference is to the *last* part of it, which he has put in italics.

#### NOWELL'S CATECHISM.

M. Quæ est arcana et spiritualis gratia [in Baptismo]?

A. Ea duplex est; remissio videlicet peccatorum, et regeneratio, quæ utraque in externo illo signo solidam et expressam *effigiem* suam tenent.

M. Quomodo?

A. Primum, quemadmodum sordes corporis aqua, ita animæ maculæ per remissionem peccatorum eluuntur; deinde regenerationis initium, id est, naturæ nostræ mortificatio, vel immersione in aquam, vel ejus aspersione *exprimitur*. Postremo vero, quum ab aqua, quum ad mo-

#### CALVIN'S CATECHISM.

M. Quæ est Baptismi significatio?

P. Ea duas habet partes. Nam ibi remissio peccatorum, deinde *spiritualis regeneratio figuratur*.

M. Quid similitudinis inest aquæ cum his rebus, ut eas repræsentet?

P. *Peccatorum quidem remissio species est lavacri, quo anima suis maculis absterguntur, non secus atque aqua abluuntur corporis sordes.*

M. Quid de regeneratione?

P. Quoniam *ejus initium est naturæ nostræ mortificatio, finis vero, ut*

mentum subimus, statim emergimus, nova vita, quæ est regenerationis nostræ pars altera atque finis, *repræsentatur*.

M. Videris aquam effigiem tantum quandam rerum divinarum efficere.

A. *Effigies* quidem est, sed minime inanis, aut fallax, ut cui rerum ipsarum veritas adjuncta sit atque annexa. Nam sicuti Deus peccatorum condonationem, et vitæ novitatem nobis verè in Baptismo offert, ita a nobis certo recipiuntur. Absit enim, ut Deum vanis nos imaginibus ludere atque frustrari putemus. [*The italics here are the Bishop's.*]

novæ creaturæ simus: in eo nobis proponitur mortis figura, quod capiti aqua injicitur; novæ autem vitæ, in eo quod non manemus sub aqua demersi, sed ad momentum duntaxat subimus, tanquam in sepulcrum, ut statim emergamus.

M. Verum, annon aliud aquæ tribuis nisi ut ablutionis tantum sit figura?

P. SIC FIGURAM ESSE SENTIO UT SIMUL ANNEXA SIT VERITAS. NEQUE ENIM, SUA NOBIS DONA POLLICENDO, NOS DEUS FRUSTRATUR. PROINDE ET PECCATORUM VENIAM ET VITÆ NOVITATEM OFFERRI NOBIS IN BAPTISMO, ET RECIPI A NOBIS CERTUM EST.

We here see, then, that the very passage in this extract which his Lordship insists upon as conclusive in favour of his view, is (like the rest) taken almost *verbatim* from Calvin. But, says his Lordship triumphantly, after quoting this passage, "It is *impossible not to see* in these words an exhibition of the same truth as is expressed in the 27th Article: '*Signum regenerationis, per quod, tanquam per instrumentum,*' &c." No doubt of it; and therefore the Article is not an exhibition of *that* truth which your Lordship deduces from these words, for they are those of Calvin himself. And is his Lordship surprised at this almost identity with Calvin's statements? I doubt whether it would be found much wide of the mark to say that Nowell's Catechism, as far as regards the greater part of it, was scarcely more than a revised edition of Calvin's. And what is of still greater importance in connexion with this subject, (and is a fact which I would earnestly commend to the attention both of his Lordship and others who are more or less openly railing against certain of the Clergy as opposing the true doctrine of our Church), by a Statute of the University of Oxford, made in 1579, for "THE EXTIRPATION OF EVERY HERESY, AND THE INSTRUCTION OF YOUTH IN TRUE PIETY," it was ordered that the students should use *either* Nowell's Larger Catechism, or *Calvin's Catechism*, or the Elements of Christian Religion, by *Andrew Hyperius*, or the *Heidelberg Catechism*, according to the capacity of the hearers and the pleasure of readers. And

that to these might be added, *Bullinger's Catechism for Adults*, and CALVIN'S INSTITUTIONS, *or* the Apology of the Church of England, *or* the Articles of religion; and all Catechisms "opposed to this sound doctrine, and other superstitious and Papistical books," were interdicted.\*

Has his Lordship any misgivings *now* as to the wisdom of his self-confidence and reproachful charges against his brethren? I have no wish to represent the doctrine of Calvin as the exclusive doctrine of the Church of England. Far from it. But certainly (to say the least) to speak of it (as concerns its chief points) as inconsistent with that doctrine, would be a mere betrayal of ignorance.

But, one more extract from Nowell's Catechism while we are upon it. Why did his Lordship stop so soon? Let us proceed a little further.

#### NOWELL'S CATECHISM.

M. Non ergo remissionem peccatorum externa aquæ lavatione aut aspersione consequimur?

A. Minime: nam solus Christus sanguine suo animarumstrarum maculas luit atque eluit. Hunc ergo honorem externo elemento tribuere nefas est. Verum Spiritus Sanctus conscientias nostras sacro illo sanguine quasi aspergens, abstersis omnibus peccati sordibus, puros nos coram Deo reddit. Hujus vero peccatorum nostrorum expiationis ob signationem atque pignus in Sacramento habemus.

M. Regenerationem vero unde habemus?

#### CALVIN'S CATECHISM.

M. Num aquam esse animæ lavacrum censes?

P. Nequaquam. Hunc enim honorem eripere Christi sanguini nefas est, qui ideo effusus fuit, ut abstersis omnibus nostris maculis, puros coram Deo et impollutos nos redderet. Atque hujus quidem purificationis fructum percipimus, quum sacro illo sanguine conscientias nostras Spiritus Sanctus aspergit: *ob signationem verò in Sacramento habemus.*

M. Regeneratio autem unde?

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\* 1. Ad extirpandam hæresim quamcunque et ad informandam in vera pietate juventutem, libros hosce legendos censemus et statuimus, viz., Catechismum Alexandri Novelli Majorem Latine et Græce, vel Catechismum Johannis Calvini Latine Græce et Hebraice, vel Elementa Christianæ Religionis Andreæ Hyperii, vel Catechesin Heydelburgensem pro captu auditorum et arbitrio legentium.

2. His adjungi possunt Henrici Bullingeri Catechesis pro adultis, et Institutiones Calvini, vel Apologia Ecclesiæ Anglicanæ, vel Articuli Religionis in Synodo Londinensi conscripti et autoritate Regia editi cum explicatione locorum communium testimoniis a sacra Scriptura aut interdum e Patribus desumptis. Ad primam lectionem juniores, ad secundam proveciores omnes nullo gradu insignitos astringi volumus.

3. Catechismos omnes, sanæ huic doctrinæ contrarios, aliosque libros superstitiosos et papisticos legi et haberi interdicimus. (Ant. a Wood, Hist. et Antiq. Univ. Oxon. vol. 1. p. 296. ed. 1674.)

## NOWELL'S CATECHISM.

A. Non aliunde quam a morte et resurrectione Christi; nam per mortis suæ vim vetus homo noster quodammodo crucifigitur et mortificatur, et naturæ nostræ vitiositas quasi sepelitur, ne amplius in nobis vivat et vigeat: resurrectionis vero suæ beneficio nobis largitur, ut in novam vitam ad obediendum Dei justitiæ reformemur.

M. *An gratiam hanc omnes communiter et promiscue consequuntur?*

A. *Soli fideles hunc fructum percipiunt: increduli vero oblatas illic a Deo promissiones respuendo, adiutum sibi præcludentes, inanes abeunt, non tamen ideo efficiunt, ut suam Sacramenta vim et naturam amittant.*

M. Rectus ergo baptismi usus quibus in rebus sit situs, breviter edissere.

A. In fide et poenitentia. Primum enim Christi nos sanguine a cunctis purgatos sordibus Deo gratos esse, Spiritumque ejus in nobis habitare, certa fiducia cum animis nostris statutum habere oportet. Deinde in carne nostra mortificanda, obediendoque justitiæ Divinæ, assidue omni ope et opera est enitendum, et pia vita apud omnes declarandum nos in baptismo Christum ipsum quasi induisse, et ejus Spiritu donatos esse.

M. Quum infantes hæc, quæ commemoras, hactenus per ætatem præstare non possint, qui fit ut illi baptizentur?

A. Ut fides et poenitentia baptismum præcedant, tantum in adultis, qui per ætatem sunt utriusque capaces, exigitur: infantibus vero promissio ecclesiæ facta per Christum, in cujus fide baptizantur, in præsens satis erit, deinde postquam adoleverint, baptismi sui veritatem ipsos agnoscere, ejusque vim in animis

## CALVIN'S CATECHISM.

P. A morte Christi et resurrectione simul. Hæc enim vis subest ejus morti, ut per eam crucifigatur vetus homo noster, et naturæ nostræ vitiositas quodammodo sepeliatur, ne amplius vigeat in nobis. Quod autem reformamur in novam vitam ad obediendum Dei justitiæ, id est resurrectionis beneficium.

M. *An promiscue in omnibus impletur hæc gratia?*

P. *Multi, dum illi sua pravitate viam præcludunt, efficiunt ut sibi sit inanis. Ita non nisi ad fideles solos pervenit fructus. Verum, inde nihil Sacramenti naturæ decedit.*

(This question and answer precedes in the Catechism that which I have placed before it.)

M. Quomodo per Baptismum nobis hæc bona conferuntur?

P. Quia, nisi promissiones illic nobis oblatas respuendo infructuosas reddimus, vestimur Christo, ejusque Spiritu donamur.

M. Nobis vero quid agendum est ut rite Baptismo utamur?

P. Rectus baptismi usus in fide et poenitentia situs est: hoc est, ut statuamus primum certa animi fiducia, nos ab omnibus maculis, Christi sanguine, purgatos, Deo placere: deinde ut Spiritum ejus sentiamus ipsi in nobis habitare: atque id operibus apud alios declaremus: utque assidue nos in meditanda tum carnis mortificatione, tum justitiæ Dei obedientia, exerceamus.

M. Si hæc requiruntur ad legitimum Baptismi usum, qui fit ut infantes baptizemus?

P. Non est necesse ut Baptismum semper fides et poenitentia præcedant: sed ab iis tantum exiguntur qui per ætatem jam sunt utriusque capaces. Satis ergo fuerit, si infantes, postquam adoleverint, Baptismi sui vim exerant.

## NOWELL'S CATECHISM.

eorum vigere, atque ipsorum vita et moribus repræsentari omnino oportet.

(Shewing here, like Calvin, that baptism has "eadem causa et ratio" with circumcision, he thus proceeds.)

M. Perge adhuc.

A. Cum infantes nostros vim et quasi substantiam baptismi communem nobiscum habere certum sit, illis injuria fieret, si signum, quod veritate est inferius, ipsis negaretur: eoque, quod ad testandam Dei misericordiam, confirmandasque ejus promissiones plurimum valet, sublato, eximia consolatione, qua veteres fruebantur, Christiani fraudarentur; duriusque cum nostris parvulis in Novo Testamento sub Christo ageretur, quam in veteri cum Judæorum infantibus sub Mose actum fuerat. Itaque æquissimum est parvulis nostris Divinæ gratiæ atque salutis fidelium semini promissæ hæredes se esse, baptismo, *impresso quasi sigillo*, testatum fiat.

M. Ecquid est amplius, quod de hac re velis dicere?

A. Quum Christus Dominus infantes ad se vocet, edicat etiam ne quis eos accessu prohibeat, ad se venientes amplectatur, ad eos regnum cœleste pertinere testetur, QUOS CŒLESTI PALATIO DEUS DIGNATUR, eos ab hominibus primo aditu vestibuloque prohiberi, et a Christiana Republica quodam modo excludi, summa videtur esse iniquitas.

Now from these passages we may clearly see what Nowell means, when he says that by baptism "renascimur." And when he comes to explain it in the very next answer, he uses almost exactly Calvin's words.

## NOWELL.

M. De Baptismo ergo primum dic quid censeas.

A. Quum natura filii iræ, id est, alieni ab ecclesia, quæ Dei familia est, simus, baptismus veluti aditus quidam nobis est, per quem in eam admittimur: unde et testimonium etiam amplissimum accipimus, in

## CALVIN'S CATECHISM.

\* \* \* \*

P. Quum satis constet vim substantiamque (ut ita loquar) Baptismi infantibus esse communem, si illis negaretur signum, quod veritate est inferius, aperta illis injuria fieret.

(He had previously observed, Signo sublato (quod ad testandam Dei misericordiam et confirmandas promissiones plurimum valet) deesset nobis eximia consolatio, qua fruebantur veteres.

M. Qua ergo conditione baptizandi sunt infantes?

P. Ut testatum fiat, benedictionis fidelium semini promissæ ipsos esse hæredes: ut agnita, postquam adoleverint, Baptismi sui veritate, fructum ex eo percipiant ac proferant. (Calv. Catech., Op. Amst. 1667, et s.)

## CALVIN.

P. Baptismus veluti quidam in Ecclesiam aditus nobis est. Illic enim testimonium habemus, nos, quum alioqui extranei alienique simus, in Dei familiam recipi, ut inter ejus domesticos censeamur.

## NOWELL.

numero domesticorum, adeoque filiorum Dei, nos jam esse : imo in Christi corpus quasi cooptari atque inseri, ejusque membra fieri, et in unum cum ipso corpus coalescere.

## CALVIN.

(Cat.) Si eorum [infantium] est regnum cœlorum, cur signum negabitur, quo velut aditus aperitur in Ecclesiam, ut in eam cooptati, hæredes regni cœlestis adscribantur.—(Inst. iv. 16, 17.)

And in fact Calvin says, in a passage above quoted, that in baptism “*spiritualis regeneratio figuratur*,” and in his *Institutions*, that the “*res figurata*” in baptism is “*regeneratio*.” (iv. 16, 4; see also §§ 17, 20, 21.) And we have already seen that when he uses these words he means,—“*Sic figuram esse sentio ut simul annexa sit veritas*,” the very words which the Bishop has quoted from Nowell to prove Nowell’s agreement with himself.

I will only add, (as it is impossible to discuss this matter further here), first, that any difficulties which his Lordship may raise from other expressions of Calvin in his *Institutes*, will lie equally against the words of Nowell, that the “*vim et quasi substantiam baptismi*” belong to infants as well as adults, and that *therefore* they are not to be denied the “*signum, quod veritate* [which they are supposed to possess] *est inferius :*” and, secondly, that if there is still any doubt as to the opinion of Nowell, whether all infants indiscriminately receive in baptism the inward spiritual grace of baptism, it will probably be removed by a reference to that portion of his *Catechism* which relates to the Church, which will be found to give Calvin’s doctrine of predestination and definition of the Church almost in his own words.

When therefore his Lordship quotes from our Articles or elsewhere general statements, that there is an inward spiritual grace accompanying baptism by God’s promise, he has got but a very little way towards his desired conclusion. All (speaking generally) agree to the truth of this. And hence apparently his hasty conclusion that all agree with him.

But he seems to think such statements are incontrovertible proofs of the maintenance of his views by those who use them, and quotes the expressions in the Articles referring to the spiritual grace of baptism with an air of unutterable triumph ; and urges the fact, that *renatis* in the Latin Articles has been translated into *baptized* in the English, as a confirmation

strong as Holy Writ, that "in the contemplation of the compilers, the terms 'regeneration' and 'baptized' were *convertible or equivalent*," that they "regarded 'baptized' and 'regenerated' as both *implying the same thing*," and seems to wonder how any body can be so stupid and perverse as not to see this; nay, thinks it "impossible that any one not *wilfully blind* should fail to see (whether he will or will not *acknowledge*)" this to be the case. (pp. 16, 17.) But pardon me, my Lord; are you quite sure that you see it yourself? Do you believe that every adult, when baptized, is regenerated? No; replies his Lordship; (p. 41.) I do not believe that myself. Then, my Lord, there is an end of your argument, that "baptized" and "regenerated" both imply the same thing. You do not see it yourself. And the question as to the regeneration of infants remains to be determined on other grounds. The interchange of the words "baptism" and "regeneration" must be accounted for in some other way; and no theologian will be at a loss for a moment as to what that way is, namely, that according to the old rule in theology, signs are often called by the name of the things signified, and those who have received the sacrament of regeneration are called *regenerated*.

And I will take the liberty of suggesting what, in my humble apprehension, his Lordship wants, and always will want, in our documents of public authority, to prove his point; namely, a declaration that the inward spiritual grace of baptism always accompanies its celebration where there is not the *obex peccati actualis et mortalis* (as Rome would say) to prevent its bestowal. This, I conceive, is the doctrine of the Church of Rome, but it is *not* the doctrine of the Church of England.

His Lordship's assertion that "by the Sacraments *ex opere operato* grace is conferred, may be affirmed, if it be understood, that it is *God who worketh* by them," (p. 11.) is of course a direct avowal of Popish error. But it is needless to insist upon this, because he broadly states that on the doctrine of Baptism we and Rome "are agreed." (p. 11.) On this point I reserve what I have further to say.

But his Lordship's comparison of the Latin and English Articles has certainly brought out one point which is well



worthy of notice. He points out the fact that in the ninth Article on "original or birth sin," the word *renatis* was rendered in the first two English versions (which are not of authority) by the word *baptized*; but in the translation agreed upon in the Convocation of 1571, and authorized by Parliament, the word *baptized* was changed to *regenerated*. Now this is remarkable, and I am obliged to his Lordship for pointing it out. The object of the Article is to maintain that this infection of nature remains even after the full baptismal grace has been given. Now the words in the former translations stood thus, "This infection of nature doth remain, yea in them that are *baptized*." But in the translation authorized by the Convocation of 1571 the word "*baptized*" was *changed* to "*regenerated*." But why so, if the terms are "equivalent?" The change would have been altogether unnecessary. The Bishop has here supplied us with a fact which *weighs strongly* against his own argument.

But we now again come to the Bishop's answer to the "Defence, &c." The Latin Articles, it appears, are looked upon by his Lordship as his sheet anchor; and accordingly from my having calmly and drily stated in a note THE FACT, attested by a contemporary prelate of the highest character, Bishop Bilson, that the English Articles of 1571 are "the Articles recognized by the Statute Law" (p. 16.), his Lordship runs off into a tirade as to my having "altogether repudiated the Latin Articles," gone "out of my way to decry the Latin Articles," with his usual garniture about "honest" men, an "Old Bailey" plea, "knowingly fastening upon English words some other sense than that of the original," &c. &c., (pp. 17, 18.)

Now all this is (to use a very mild term) mere romance. I have done nothing of the kind, as his Lordship very well knows. I have simply mentioned *a fact*, quoting a statement of Bishop Bilson (of which his Lordship prudently ignores the existence) as my authority for it. But it seems that his Lordship was unacquainted with it, and is now exceedingly angry at hearing it, and can find no better way of dealing with it than by abusing the person who mentions it. I said not



one syllable in depreciation of the Latin Articles, or of their possible use in throwing any light upon expressions in the English. And as far as I am concerned, his Lordship is heartily welcome to go to them for such a purpose, and to Greek too if he can find them put forth by the same hands. I only wish there was a larger number of documents left by their authors to *manifest* beyond the power of contradiction their real sentiments.

But I must not pass over his Lordship's remarks upon this subject, without pointing attention to a passage occurring in them, which is a very extraordinary illustration of the amount of his information as to the history of these Articles. He says,—

“The Articles were passed, recorded, and ratified in 1562, in Latin only: and those being the Articles of which the Book presented to Parliament in 1571 (13th Elizabeth), and subscription to it commanded by the Statute of that year, professed to be a translation,—we are bound to understand the Book so commanded, to be a *faithful version of the Latin* (unless we gratuitously ascribe to Parker and Jewell, and the other Bishops of 1571, either *ignorance or dishonesty beyond all example.*)” . . . . . “Whatever may become of the matter of subscription, the full legal validity of the Canon of 1562, passed by Convocation, and ratified by the Queen, remains untouched. It was, is, and until repealed by equal authority, will ever remain, the law of the Church: and the true meaning of the Articles must be judged of accordingly.” (pp. 17, 18.)

Now such passages as these, from the pen of a senior ruler of our Church, in a solemn address to his Clergy to instruct them in such matters, are most extraordinary. Is the Bishop really unacquainted with the fact that the Articles of 1571 differ in many places, and materially, from the Articles of 1562? And what does he mean by “the Canon of 1562, passed by Convocation and ratified by the Queen,” remaining “untouched,” and being still “the law of the Church?”

There was no Canon at all on the subject in 1562, but only a synodical acceptance of the Articles. Moreover the Articles *as* passed by the Convocation of 1562 never had the Royal authority affixed to them; for when they were presented to the Queen for her allowance, the important clause on Church authority in the 20th Article was *added*, the 28th was materially altered, and the whole of the 29th was *struck*

*out*, and the Articles were published with these alterations. Now the Articles of 1571 retained the addition and alteration, but inserted again the 29th Article, of course with the Queen's authority, so that in a very important point they differed both from the Book of Articles passed in Convocation, and from that published with the Royal authority. Add to this that it is a notorious fact that both the Latin and English Articles were revised in, or by the authority of, the Convocation of 1571, before the latter were presented to Parliament; and that they were published *as so revised* by the Queen's authority; as indeed the Ratification states. The details his Lordship will find to his hand in Dr. Bennet's Essay on the Thirty-nine Articles. And I suppose it is not at all necessary to stop here to vindicate "Parker and Jewell and the other Bishops of 1571" against his Lordship's very characteristic charges of "ignorance or dishonesty beyond all example." The Articles, then, as revised in 1571, with the authority of Convocation and the Queen's assent (not to mention now the authority of Parliament, which applies only to the English Articles) are those which alone are of any weight now, and not the Articles of 1562, either as agreed to by Convocation, or as published by the Queen, both of which have clearly been *superseded* by those of 1571.

If his Lordship should think that, under these circumstances, the title given to the Articles subscribed, both in the Act 13 Eliz. and the 36th Canon of 1604, might have been more correctly worded, I should be disposed to agree with him, but it is very obvious what is meant.

The quotations from the Homilies, and other sources, which the Bishop adds here in confirmation of his view of the doctrine of our Church on the subject of baptism, I shall deal with in my promised reply to his Lordship on that subject.

His Lordship proceeds to object to my drawing any distinction between the subscription to the Articles as "agreeable to the word of God," and subscription to the Prayer-Book as "containing in it nothing contrary to the word of God," informing his hearers that this is "one main argument;" and then proceeds to the very unnecessary task (so far as the vindication of truth is concerned) of maintaining that the use of

such words "does not in the smallest measure imply that the great body of our public prayers is not, as it ought to be, eminently scriptural." (p. 22.) Here of course he is fighting without an adversary, but the object is evident. Whether there is not, and was not intended to be, a difference, I leave the reader to judge, though I do not make it "one main argument." The practical tendency of the difference is illustrated in the case of Dr. Burges, whose remarkable paper respecting the true meaning of the subscription required, I have given in the "Defence," pp. 21, 22.

His Lordship proceeds to a consideration of the Canons of 1571 and various subsequent years, in which, though the candidates for ordination and institution are expressly directed to give an account of *their faith* to the Bishop, "agreeable and consonant to the Articles," "according to (juxta) the Articles," the Bishop cannot see that this proves them to be the standard of doctrine in our Church, even "*in the points treated of in them*," (for that is the proposition condemned). I can only say, I am sorry for it, but others I think will be of a different mind, and to the judgment of impartial men I leave it; as well as his Lordship's interpretation of the Canon of 1571, "Concerning Preachers."

But when the Bishop adds, "Such are the main proofs of the position that the Articles are not one of the tests, but *the test, the standard* of doctrine in our Church," (which, by the way, is a mis-representation, because the important words "in the points treated of in them" are omitted), I beg to ask his Lordship, what he has done with the important Act of the 13th of Elizabeth, and the chain of testimonies which I have added on the point, respecting which he maintains the most profound silence, except in discussing an irrelevant point respecting the former in a way which I shall notice presently. To repeat these proofs here would of course be merely to give over again a large portion of my pamphlet, and therefore I must refer my readers to that place for them.

But his Lordship has now a very terrible charge to bring, ushered in with the usual phrasology as to "honesty," &c. (which I leave in his exclusive possession), that I have actually omitted to notice a Canon passed in 1571, and repeated among

those of 1604, which enacts as to preachers in cathedrals, that the authorities of the Cathedral shall give notice to the Bishop "of any one who in his sermon in their Cathedrals shall publish any doctrine, either strange, or disagreeing from the word of God or from any of the Articles of Religion agreed upon in the Convocation of 1562, *or from the Book of Common Prayer.*" (Can. 51. 1604.)

I beg to ask what this has to do with the matter. I should be exceedingly sorry to lose this Canon, which on the one side may serve for the condemnation of any who might be disposed to call in question such points as the Scriptural character of the rite of Confirmation, &c., and on the other, of any who might be disposed to laud Papistical observances in points not treated of in the Articles. But the clause is evidently carefully worded, so as not to interfere with any such cases, and therefore this Canon is not in the slightest degree opposed to it. The notion that the Book of Common Prayer is here mentioned as a coordinate authority with the Articles in the points discussed in them, is merely the Bishop's groundless assumption.

The cases of Whiston and Clarke, in 1710 and 1714, fall to the ground for the same reason. They do not meet the case. Legal charges are generally drawn up in the most comprehensive form, and therefore it is not to be wondered at that the Liturgy should be joined with the Articles in the Bills of accusation against them. The Liturgy is not to be supposed absolutely worthless in all questions of doctrine, as his Lordship would fain insinuate, to throw discredit upon a proposition which he dislikes. *The question is, where the supreme authority lies.* And I can assure some of those who are making common cause with the Bishop of Exeter in this matter, that they little know the importance of the view they are decrying, to the preservation of the Protestant faith in our Church, as a few years may very probably convince them.

But the reference is in fact a very unfortunate one; for in the very same year, 1714, in which the latter of these two cases occurred, and in consequence of the occurrence of that case, (and probably the previous one of Whiston) the following "Direction" was issued (or rather re-issued, for it had appear-

ed in 1694) by the Crown, as I have mentioned in my "Defence," p. 20. "That no preacher whatsoever, in his sermon or lecture, do presume to deliver any other doctrine concerning the Blessed Trinity, than what is contained in the Holy Scriptures, and is agreeable to the three Creeds, and the Thirty-nine Articles of religion." (Clerg. Assist. p. 566.) Which is followed by another very important direction, which it may be useful to quote, that they shall take care, "that, *above all things*, they abstain from bitter invectives and scurrilous language against all persons whatsoever."

Here, then, in the very case quoted by his Lordship, we see what was put forth as the doctrinal standard of our Church in the Direction issued by authority *on the occasion*.

As to the verbal criticism (p. 30), upon my remarks on the Book of Common Prayer, from my having used the word "written," when a large part of the Book is (as every one knows) taken from older ecclesiastical books of a similar kind—of which, in *most characteristic* language, he says, "a more fallacious, (I am unwilling to *say*, a more *fraudulent*) description of our Prayer Book could hardly be devised"—I leave it to the reader to do justice to it. Of the *fact* there stated, that the Book was "carefully drawn up, so as to give as little offence as possible to Romish prejudices," I shall only say that the Bishop's denial of its truth is merely another proof of his want of acquaintance with the history of that period, of which his next sentence supplies us with further evidence. "So far indeed," he says, (pp. 30, 31.) "were the compilers from seeking to conciliate the Romanists, that in both the Prayer Books and in the Primer of Edward VI. a clause was inserted in the Litany, which alone is sufficient to expose the disingenuousness or the ignorance which prompted that description of our Prayer Book which I have just read to you. After the words, 'from all sedition and privy conspiracy,' was thrust in this most unchristian addition, 'from the tyranny of the Bishop of Rome, and all his detestable enormities,' good Lord deliver us! Happily so monstrous a violation of Christian charity was not permitted long to pollute our Liturgy. Queen Elizabeth (honoured be her memory for it!) in the very commencement of her reign,

by the very Statute which restored to us the most precious of all the legacies of our martyred Reformers, the Book of Common Prayer, struck out of it this one disgraceful passage—and this *only*.”

Now if the Bishop supposes that the clause of which he here speaks was first inserted in the Prayer Book of 1549 (which his words certainly seem to imply), this is another error, for it was inserted in a Litany published by the authority of Henry VIII. in 1545. (Burnet iii. 248. Nares’s Edition.) Moreover it was *not* the “only” passage struck out of the Book by Queen Elizabeth, for she omitted also the whole of the important rubric in King Edward’s second Book, respecting no adoration being intended to any corporal presence of Christ in the Eucharist by kneeling, evidently for the same purpose that she struck out the whole of the 29th Article (which was not replaced till 1571), and altered the 28th, namely, to conciliate the Romanists.

In fact, between the delivering of the Charge and its publication, this somehow came to his Lordship’s knowledge; for in a note appended to the Charge as published by the Bishop, we have, in the next page, a “history of this Rubric,” which notices the omission of it in Queen Elizabeth’s Book.

Respecting the *animus* with which I have been “disingenuous or ignorant” enough to suppose that our Reformers acted with regard to the drawing up of the Book of Common Prayer, it is too well known to well-informed persons to need many testimonies respecting it. But I will give a few. What does Wheatly (a witness to whom his Lordship certainly cannot object) say? After stating that the object of our Reformers was only to *purge* the Church’s “form of worship,” he adds,—“In which reformation they proceeded gradually, according as they were able;” and when noticing the omission of the above-mentioned Rubric by Queen Elizabeth, he says, “It being the Queen’s design to *unite the nation in one faith*; it was therefore recommended to the Divines to see that there should be no definition made against the aforesaid notion [i. e. of the *real* presence], but that it should remain as a speculative opinion not determined, in which every one was left to the freedom of

his own mind." (Illustration of Book of Common Prayer, 6th Edition, pp. 24—29.) And has his Lordship forgotten the testimony of Heylin, (a great authority with his own party) on this point? I *repudiate his language myself*, holding it to be much too strong, and not borne out by facts; but it may be well for the Bishop, who denies even the truth of my statement, to know what one of the highest authorities of his own school states on the subject.

Of the Liturgy as first drawn up, Heylin says,—“And now the time draws on for putting the New Liturgy in execution, *framed with such judgment out of the common principles of religion, wherein all parties do agree*, that even the Catholics might have resorted to the same without scruple or scandal, if faction more than reason did not sway amongst them.” He adds still stronger words in favour of this view, but I will not even repeat them. (Hist. of Reform. Edw. VI. p. 74.) And in noticing the revision of the Book at the accession of Queen Elizabeth, he says, “In the performance of which service, there was *great care taken for expunging all such passages in it as might give any scandal or offence to the Popish party*, or be urged by them in excuse for their not coming to church, and joining with the rest of the congregation in God’s public worship.” And after noticing the various alterations made, he adds,—“By which *compliances*, and the expunging of the passages before remembered, the Book was made so *passable amongst the Papists*, that for ten years they generally repaired to their Parish Churches without doubt or scruple.” (Ib. Queen Eliz. p. 111.)

Now I believe I have proved, in my reply to Mr. Oakley, (Tract XC. Historically Refuted, pp. 29, &c.,) that such a statement as this is much too strong, and the last sentence entirely erroneous; and when the Bishop accuses me of speaking of “the Romanizing character” of the Prayer Book, from having used the words he complains of, he may there see that no one has been at greater pains to prove its opposite character. But I say now, AS I THERE SAID, “In the Prayer-book they did what they could to avoid giving *unnecessary* offence to the Romanists, because *all* were required by Act of Parliament to attend the services of the Church.” (p. 19.) And



the practical consequences necessarily resulting from such a course in the *wording* of the Book are manifest.

At a time when the whole nation were compelled by law to attend the services of the Church, and at the same time a large portion attached more or less to Romish doctrines, there was much to be said in favour of such a course ; and I will only take the liberty of adding, that I heartily wish more of the same *spirit* of Christian charity had been found, at more than one period of our Church, in some of the successors of the Bishops of that age.

Whether, when the state of things became altered in Laud's time, and the high places of the Church were occupied by men who "in their hearts turned back again to Egypt," and availed themselves of the concessions of Christian charity made by their predecessors, to destroy Christian peace and purity of doctrine among us, by insisting upon the general reception of a Popish interpretation of passages retained or worded with an eye to conciliation, (for which much was to be said at the period when they were sanctioned),—whether *then*, such a construction of the Prayer Book was the best possible, and has since remained so, is another matter.

The introduction of the clause in the Litany is no proof that on *doctrinal* points the views of the Romanists were not considered ; because that had reference to the tyranny and usurpations of the *Bishop* of Rome, the grievousness of which was deeply felt by many in this kingdom, who were still attached to the principal points of the Romish faith.

But I will close this point with two extracts from contemporary witnesses, written immediately after the publication of the Book of Common Prayer in 1549. The first is from a letter of Martin Bucer and Paul Fagius to the ministers of Strasburgh, written from Archbishop Cranmer's residence at Lambeth, (by whom they had been invited to this country for the purpose of assisting him in the work of Reformation), dated April 26, 1549.

"As soon as the description of the ceremonies now in use shall have been translated into Latin, we will send it to you. We hear that some *concessions have been made both to a respect for antiquity, and to the infirmity of the present age* ; such, for instance, as the vestments commonly used in the Sacrament of the Eucharist, and the use of candles ; so also in regard to the commemoration of the dead, and the use of chrism ;



*for we know not to what extent, or in what sort it prevails. They affirm that there is no superstition in these things, and that they are only to be retained for a time, lest the people, not having yet learned Christ, should be deterred by too extensive innovations, and that rather they may be won over.*”—(Original Letters relating to the Reform. Park. S. ed. vol. 2. pp. 535, 536.)

A curious piece of information is also preserved to us in a letter of Dryander to Bullinger, dated June 5, 1549, shewing the difficulties with which our Reformers had to contend.

“ You will also,” he says, “ find something to blame in the matter of the Lord’s Supper ; for the book speaks very obscurely, and however you may try to explain it with candour, you cannot avoid great absurdity. *The reason is, that the Bishops could not of a long time agree among themselves respecting this Article ; and it was a long and earnest dispute among them, whether transubstantiation should be established or rejected.*”—(Ib. vol. 1. p. 351.)

But his Lordship has found out “ that the Book of Common Prayer contains matter incomparably stronger in reprobation of Romish doctrine than any in the Articles ;” (p. 31) ; and his proof is, that the rubric above referred to is to be found there, having been restored at the revision in 1662.

Now, I quite admit that the *language* used in this rubric respecting adoration of the elements is much stronger than that used in the Article ; and I am glad to see the value which his Lordship has affixed to it, as it may induce him to reconsider his assertion, that though transubstantiation is not to be held, yet that the words “ this is my body ” are to be interpreted “ literally.” (See Mr. Gorham’s Exam. p. 74.) But when transubstantiation is distinctly disavowed in the Articles, as “ repugnant to the plain words of Scripture,” &c., and it is maintained that “ the body of Christ is given, taken, and eaten in the Supper, only after an heavenly and spiritual manner, and the *mean* whereby the Body of Christ is received and eaten in the Supper is *faith*,” and that the wicked in partaking are not “ partakers of Christ,” does the Bishop mean to assert, that adoration of the elements is not *sufficiently* condemned by such language—that it could be legally practised in conformity with the Articles ? The language was less harsh and repulsive to the Romanists than that of the rubric ; and therefore was preferred to what had stood in the Article before, which was like the rubric, but its meaning is the

same. Bishop Burnet says of it, that it “seemed to be more theological, and *does indeed amount to the same thing*” . . . “the same sense.” (On Art. 28.)

And in the same place he gives us another testimony to the truth of the view I have just been maintaining.

“The design of the Government,” he says, “was at that time [the accession of Queen Elizabeth] much turned to the *drawing over the body of the nation to the Reformation, in whom the old leaven had gone deep*; and no part of it deeper than the belief of the corporeal presence of Christ in the Sacrament; therefore it was thought *not expedient to offend them* by so particular a definition in this matter, in which the very word *real presence* was rejected [alluding to the words of the Article of 1552].”

The effect of this *animus*, entertained both in the time of Edward VI. and Elizabeth, upon the *wording* of the Book of Common Prayer, is manifest; and the question with respect to some parts of it, is simply this,—not whether they are susceptible of a Protestant interpretation, and were intended to lead to it, about which there can be no doubt in the minds of those who are acquainted with the views of the divines who were in authority when it was compiled, and therefore may be subscribed without any difficulty,—but whether the circumstances of the times did not unfortunately leave them more *open* to a Popish interpretation than could be desired.

But though from 1559 to 1662, our Church was without this rubric, his Lordship actually informs us that but for it “a Clergyman might openly in his Church worship the consecrated elements with the adoration due to God himself, yet not be liable to any censure,” (p. 32.) and very tragically asks whether we will “submit to the introduction of one of the worst corruptions of Rome.” Of course such a passage as this will only excite a smile from every reader.

Who they are who are likely to introduce the corruptions of Rome, this Charge pretty clearly manifests. And a sentence standing in the next page of the Charge affords tolerably good evidence on this point. “In order to ascertain, for instance, the nature of the honour and veneration paid to the Blessed Virgin and the Saints, we look not merely to the Decrees of Trent, or the Creed of Pius IV., for *there is little in them, which, IF THE VIRGIN AND THE SAINTS ARE REALLY*

CONVULSION OF WHAT WE DO ON EARTH, could be severely censured, but we have recourse to the ritual, &c." And is it really some to this, that it is held by a Bishop to be an open question whether or not the Virgin and the Saints are cognizant of what we do on earth, and consequently whether the "orations" may or may not be used? And that if we determine in the affirmative, there is little in the Decrees of Trent or the Council of Pius IV. which could be severely censured, but our censures are to be reserved for the more direct applications to the Saints made in Roman Catholic books of devotion?

Here at least his Lordship's tendencies are made sufficiently plain.

But there is one remarkable passage in the previous page, which I must not allow to pass unnoticed. Such is the power of truth even in such cases as that before us, that the Bishop himself says, "True it is that THE VERY NATURE of a Book of Prayer does not often admit of its thus directly giving expression to dogmatic truths" p. 32. Now if such is "the very nature" of a Book of Prayer, it follows as a necessary consequence, that the Articles, which are expressly of a dogmatic nature, are the supreme authority so far as they have spoken. The Bishop therefore has here involuntarily answered himself. He here admits *the principle* upon which the clause is founded, though, for obvious reasons, he is unwilling to follow it out. In fact, the point at issue is one which the common sense of mankind, when unbiassed by having a purpose to answer, will at once determine.

And what are the only cases which the Bishop adduces as instances of "directly dogmatic teaching in the Prayer Book?" Two *rubrics* drawn up in the same form as the Articles.

"But," says his Lordship,

"I must say one word more of this writer's insinuations of the Romanizing tendency of the Prayer Book. The only instance ever specified now-a-days, so far as I am aware, is the acknowledgment of *the power of Absolution* in our Priesthood, and the terms in which Absolution is pronounced in the office of 'Visitation of the Sick.' We all know that this part of our Liturgy has been remarked upon as a remnant of Popery, in quarters where more of soundness at least, if not of knowledge, might reasonably be looked for. In answer to such remarks, by whomsoever made, suffice it to say, that the form which they thus condemn, is no more than the exercise of a power left by our Lord to his Church in the

Apostles, with whom he promises to be 'always even to the end of the world.' Will the 'Defender of the Articles' join in saying that this is a concession to Romish prejudices? If he does, let him be aware how far the charge will reach. The Articles are as open to it as the Prayer Book, for the 36th says of 'the Book of Consecration of Bishops and Ordering of Priests and Deacons,' **IN WHICH THIS POWER IS CONFERRED**, that it 'doth contain all things necessary to such Consecration and Ordering; neither hath it anything that of itself is superstitious and ungodly.' To you, my Reverend Brethren, I will not say anything in vindication of *the assertion of this Power*. You know that it is a power which the Church has ever thankfully acknowledged to have been given to her by her Divine Head, and which no particular Church can ever surrender, without cutting itself from the Catholic Church of Christ, and therein from Christ himself." (pp. 33, 34.)

"Insinuations" I leave to his Lordship, as well as such misrepresentation as he has here, as elsewhere, indulged himself in, which in p. 35 is advanced to "this writer's insinuations of the *Romanizing character* of the Prayer Book." What I did say, and affirm as a matter borne out, not merely by a consideration of the circumstances of the case, but by historical testimony, is, that the Book of Common Prayer was "carefully drawn up so as to give as little offence as possible to Romish prejudices," which is (as I have proved) an *historical fact*,—and his Lordship has only shown his discreditable ignorance in denying it,—and I asked, "Is such a Book calculated to serve the purpose of a standard of faith?" I willingly accept the case which his Lordship has here referred to, and shall now proceed to discuss it.

And first I beg to ask his Lordship how it is that, if the Priesthood possess this "power of absolution," it was *never exercised for the first twelve centuries that succeeded the Apostolic times*. Does his Lordship stare at such a question? Very probably he will. But I must take the liberty of informing him, that during this whole period, the form that was exclusively used was *precatory* or *optative*. And I need not stop to prove that a prayer for a blessing, or an expression of a desire for it, is inconsistent with the notion that he who uses that form does himself give it. The fact is, that the *indicative* form, "*I absolve thee*," was introduced by the Romanists in the darkest period of the history of their Church, and has never to this day, I believe, been received by the Greek Church. And I have no hesitation in saying, that the indi-

*cative* form was probably retained in our Church from a regard to the feelings of the people, who had been accustomed to it, and would probably at that time have been dissatisfied with an alteration in it; while our Reformers hoped that the Protestant interpretation of it would gradually come to be the received view of it.

Oh ! but, says his Lordship, be “aware” how you take such ground as this, for the Article itself declares that the Book of Consecration of Bishops and Ordering of Priests, &c. hath not “anything that of itself is superstitious and ungodly;” and in the services that occur there (thinking to stop all argument by his usual self-confidence as to the exclusive correctness of his own interpretation of that Book) “THIS POWER IS CONFERRED.”

Now while I quite admit that in the Consecration and Ordination Services there is not “anything that of itself is superstitious and ungodly,” I also hold, that the Bishop’s interpretation of a portion of those services is *very* “superstitious and ungodly.” And I must also inform him that here again the form of expression to which he alludes as proving the correctness of his view was not in use till at least the 12th century.

But I will settle the view of our Church respecting it at once, by a passage from the learned Dr. Whitgift, the immediate successor of Grindal and Parker in the Archbishopric of Canterbury,—a man of a kindred spirit with them, and whom Mr. Maskell himself (Holy Bapt. p. 330) calls one of “*our greatest divines*,”—shewing the sense of our Church when using these words.

“The Bishop, by speaking these words, [i. e. receive the Holy Ghost, &c.] doth not take upon him *to give the Holy Ghost, no more than he doth to remit sins when he pronounceth the remission of sins*: but by speaking these words of Christ, ‘receive the Holy Ghost, whose soever sins ye remit, they are remitted,’ &c., he doth *shew the principal duty of a minister, and assureth him of the assistance of God’s Holy Spirit, if he labour in the same accordingly*. . . . Christ used these words ‘this is my body’ in the celebration of his Supper, but there is no special commandment that the minister should use the same, and yet must he use them because Christ used them: even so, when Christ did ordain his disciples ministers of the Gospel, Jo. xx. he said unto them, ‘receive the Holy Ghost,’ &c., which words, because *they contain the principal duty of a minister, and do signify that God doth pour his Spirit upon those whom He calleth to that function*, are most aptly also used of the Bishop (who is God’s

instrument in that business) in the ordaining of ministers. . . . Neither doth the Bishop speak them as though *he had authority to give the Holy Ghost*, but he speaketh them as the words of Christ, and in the like action, who (as I said before) doth most certainly give his Holy Spirit to those whom He calleth to the ministry . . . . That there is any great misliking of these words, 'Receive the Holy Ghost,' (*except only when they speak of THE PAPISTICAL ABUSING OF THEM*) I cannot perceive."—(Whitgift's Defence of the Answer to the Admon., pp. 227, 228.)

Precisely so : explain these words in a Protestant sense, the sense in which our Reformers intended them to be used, and they have a very good meaning ; but explain them according to "*the papistical abusing of them*," and they are very objectionable. And here is an important and undeniable illustration of the truth of the assertion, that the Book of Common Prayer is not suited to be a test of doctrine. The true Protestant uses these words in one sense ; the Papist and Tractarian in another, and an un-Protestant one ; precisely in the same way as (I contend) the language in the Baptismal Service was used by most at least of our Reformers in one sense, by the Romanists in another. And as I said before, so I say again, that the readiest way to re-introduce Popery among us, is to press "*the papistical abusing*" of such passages as their true and proper meaning ; and for the abettors of such "*abusing*," if they can contrive to get into posts of authority in our Church, to force their clergy by persuasion, threats, intimidation, persecution (whichever may seem most likely to answer the purpose) into compliance with their views.

No doubt the existence of such language in the Prayer-Book leaves it open *here* (unfortunately, as I think,) to those among us who are so inclined, to adopt the doctrines that flow from a papistical interpretation of that language, though I cannot understand how such can maintain the *whole* doctrine of our Church consistently with their views on this and kindred points ; while at the same time I doubt not the sincerity and intentional good faith of a large number among them. I have no sympathy with his Lordship's feeling of all being rogues but those that think as I do. There are, however, I am convinced, others among them who are staying among us merely for the purpose of dragging our Church into a re-union with Rome. But at any rate let

not those who are the true successors of the Reformers be denied even the privilege of interpreting it in a Protestant sense. And the reader will mark the overweening, overbearing self-confidence with which his Lordship ignores the possibility of any other meaning being *honestly* affixed to such passages than that which he gives them. All who take any other view of them are ignorant, fraudulent, dishonest; in fact rogues and scoundrels, to be hunted out of the Church; and are broadly told by his Lordship to follow the example of the Nonconformists, and leave the Church; and that it is to their shame that they have not done so. (p. 48.)

We are very much obliged to his Lordship for so politely, and in such gentlemanly terms, shewing us the door; but we think it at least but fair that the question should first be adjudicated which has the best right to the house. I will however do his Lordship the justice to say, that I believe he is so ill-acquainted with the writings of our Reformers and early divines, that he has little idea of the views which then prevailed here on the points in question. His reading has evidently been thoroughly partial and one-sided; and the consequence is, that when he comes to speak of the views maintained in our Church, he does so as one who sees nothing but what is reflected from his High Church mirror. That he should adjndicate fairly upon the claims of doctrine he dislikes, to his protection, or at least toleration, is, under such circumstances, clearly impossible.

And to bring this case as it now stands more clearly before the reader, I shall give some extracts from a sermon,\* preached before the Bishop at *this* Visitation by his own *Examining Chaplain*, showing the views now openly promulgated in that quarter upon the point we have been considering.

“They need the constant help of sacraments, at each turn and period and action of their earthly pilgrimage: of sacraments which shall symbolically express the deep relation which every passage of their spiritual life must bear to the One Atonement of our Blessed Lord, and which shall assure and shall impart the Divine energy, which, having been requisite at the beginning of that life, is no less necessary for its continuance

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\* The Outward Means of Grace. A Sermon preached in the Church of St. Mary, Totnes, at the Triennial Visitation of the Bishop of Exeter, Aug. 11, 1848. By the Rev. W. Maskell, &c. Lond. Pickering.



and consummation. In saying 'sacraments,' I employ the term in its wide acceptation, as distinguished from the stricter sense in which our church defines Baptism and the Holy Eucharist; *they* are sacraments generally necessary to salvation: *they* are sacraments ordained for that especial purpose by Christ himself: not so, others, still sacraments, *still means of grace and of aid and of spiritual sustenance*. . . . . As repentance and faith without the sacrament of baptism, where it can be had, do not justify a man; as regeneration, and sanctification, and admittance into the kingdom—whether under its mystical form as the Church militant here in earth, or under its completed form as the Church triumphant in heaven—are, so far as we know from Scripture, attached to baptism; so, in like manner, why are we not to conclude that by some *sign of an inward spiritual grace*, after baptism, men may *obtain pardon of their sins*, not relying solely upon the internal exercise of faith and repentance? Surely these words alone, 'Receive ye the Holy Ghost; whose soever sins ye remit, they are remitted unto them; and whose soever sins ye retain, they are retained,' must have *some* bearing upon this point; even as we believe that by God's special and inscrutable working, *the first beginning of the Christian life* is not to be without water as well as the Spirit; or the constant continuance and nourishment of that life, without the eating and drinking of consecrated bread and wine, *made to BE the Body and the Blood of our Lord*. Were it indeed otherwise, how strange a mockery, nay, how detestable would be the blasphemy of that language, which idly and without meaning, upon the solemnity of ordination, dares to repeat those words! to repeat them, not idly, but deliberately, and as *communicating power*: not as recording some historical truth, that such an authority was once given to the apostles, but as claiming for those who speak *the same authority to themselves, the successors of the apostles, and DELIVERING IT TO WHOM THEY WILL*. Such is the language of the Church of England.—It may be *objected* that *priestly absolution* is not *necessary as a means of grace for the remission of sins*, because such remission is to be received in the sacrament of the Blessed Eucharist. But . . . . . such an objection can be admitted only upon *the most strict interpretation of the term necessity*. . . . . *For I hold it to be a most certain truth, that THE FULL GRACE (whatever it may be) OF SACERDOTAL ABSOLUTION IS TIED DOWN AND LIMITED TO A PREVIOUS DISTINCT CONFESSION, BY WORD OF MOUTH, OF ALL KNOWN AND REMEMBERED SINS: and that where the one has not gone before, the other can find no place*. The question therefore is, whether the Church of England does still recognise *a power of absolution* to be existing in her priesthood, and still exhort her people to believe in its reality, as *A CHIEF PRIVILEGE AND BLESSING OF THEIR CHRISTIAN STATE? Who can doubt it?* In her ritual and ordinal, in her Liturgy and offices of Common Prayer, we have *plain, most plain* declarations of the conveyance of the power, and examples of its exercise, and admonitions to the people to avail themselves of it." . . . . . "I cannot see in the doctrine of *restoring a lapsed Christian to his state of justification by absolution* a greater difficulty, than in the truth that he is admitted into that state originally by baptism." (pp. 15, 16; 25—28; 34.)



And, in direct opposition to Archbishop Whitgift's words, he lays down this Canon of interpretation, that "the soundest principle of interpretation which we can use, in enquiring into the true meaning of the various services in our Common Prayer Book," is "that whatsoever we there find handed down from the earlier rituals of the Church of England, and not limited in its meaning by any subsequent Canon or Article, must be understood to signify, *fully and entirely, all that it signified before the revision of the ritual.*" (pp. 32, 33.)

Such is the doctrine of one of the leaders of his Lordship's party, who is also his *Examining Chaplain*, propounded before him at the Visitation in which this Charge was delivered. Be it, or be it not, convenient to his Lordship to make himself responsible for all that is here advanced, I stop not to enquire. Not to say that this is the doctrine of his *Examining Chaplain*, there is nothing in it but what immediately follows from the doctrine avowedly held by his Lordship himself upon the subject. I make no apology for the length of these extracts, and regret I cannot add more, because it is important that the public should know the real views of the party, and what is in prospect for their children.

Here the reader may see the doctrine of one whom the Bishop "delighteth to honour." I say, then, "*Noscitur a sociis.*" And at any rate we may hence perceive what is the interpretation of our Prayer Book to which a party among us are attempting to bring us; and that the same principle of interpretation for which they are contending in one service, is to be *carried out throughout the Book*, and moreover as *the only "honest" and admissible one*, TO THE EJECTION FROM THE CHURCH OF THOSE WHO DO NOT ADMIT OF IT.

It follows, we are told, from the language of the Prayer Book, that "priestly absolution" is a sacrament of great importance, conferring grace; and that, if it be admitted that it "is not *necessary* as a means of grace for the remission of sins," it can be "only upon the *most strict* interpretation of the word *necessity*. . . . . For I hold it," says Mr. Maskell, "to be a most certain truth, that the full grace (whatever it may be) of sacerdotal absolution is tied down and limited to a previous distinct confession, by word of mouth, of all known and remembered sins: and that, where the one has not gone before,

*the other can find no place ;*" and that "the power of absolution in the priesthood" is our people's "*chief privilege and blessing in their Christian state.*"

Here, then, we have auricular confession to the priest of all known and remembered sins, the full grace of sacerdotal absolution limited to such a distinct confession, and such absolution all but (even if it is not) necessary for the remission of sins. "Who can doubt," says Mr. M., that this is the doctrine of the Prayer-book ?

When I see then the *use* which is being made, and has aforetime been made, *by various parties*, of such language, I think the *wording* (not the *Protestant sense*) of such passages to be not the most judicious in the present day ; and therefore as the Declaration in the Act of Uniformity, standing alone, has been *interpreted* by some parties as requiring *such* an assent and consent to all and everything contained in the Book as to pledge one to the belief that every phrase is the best possible that could have been used, and of the bare literal un-theological sense of the words, which would include even the literal meaning of the words, "This is my body," I felt it right to point out to my brethren that the Declaration was not intended to mean any such thing, but that the previous words distinctly point out that it is only a pledge to the assent and consent to "the use" of all and everything contained and prescribed in the Book ; *carefully adding* (as I shall show presently) that *this* (even without taking into account the Canon) necessitates a belief in the truth and Scriptural character of the Book in the view of the Declarer. And I would remind the reader, that all the charges about dishonesty we meet with, against those who do not take the most literal sense of every phrase, are only a stale repetition of those which Romanists have all along brought against Protestants for not understanding the words "This is my body," in their literal sense.

The question is one, not of belief or disbelief in the doctrines of the Book of Common Prayer, but of their openness to misinterpretation, of their susceptibility of a meaning which Archbishop Whitgift called a "Papistical abusing of them" opposed to the views of our Reformers, but which the Bishop of Exeter and his Chaplain, and the whole party,

loudly vaunt is their only meaning, and abuse all who differ from themselves in the interpretation they thus put on them, as dishonest.

Am I singular in making such remarks? What said one of the greatest of our more modern Primates when dealing with the case of the noted Dr. Sacheverell, the High Church firebrand of the last century, whom the Legislature of the country was at last compelled to silence?

When his case (grounded upon his Sermon entitled "Perils among False Brethren"), came for discussion before the House of Lords, one point particularly noticed in the speech of Dr. Wake, (then Bishop of Lincoln and soon afterwards Archbishop of Canterbury) was the review of the Liturgy for the sake of meeting some of the objections brought against it, that had been proposed a few years previously, which had been loaded by Dr. S. with the most opprobrious revilings, and which Dr. Wake there tells us *originated* with *Sancroft* when Archbishop, who so far from being disposed to Low-Churchism, as it is called, became, on the accession of William and Mary, a Nonjuror. Now on this point, Bishop Wake, after alluding to the fact I have just mentioned, says in defence of such a review, "How would our excellent Liturgy have been the worse, if a few more doubtful expressions had been changed for plainer and clearer; and a passage or two, which however capable of a *just defence*, yet in many cases seem *harsh* to some even of our own Communion, had either been wholly left at liberty in such cases to be omitted altogether, or been so qualified as to remove all exception against them in any case." (Bp. of Lincoln's Speech in Sacheverell's Case. Lon. 1710. pp. 38, 39.)

Such was the view which this well-read and able divine and Christian-spirited prelate took of the matter, clearly seeing how deeply the peace and welfare of the Church were concerned in it. And I believe his views in the matter to have been most just. And that more especially as relating to points not now so *directly* in controversy, but which are evidently about to be pressed upon the Church.

And I refer to the language of Archbishop Wake, given above, not as urging active measures upon the matter there

recommended, but to keep before the public mind the true state of the case, that they may be less open to misdirection on the subject.

Among the authorities which I quoted was of course the important Act of the 13th Eliz., entitled "An Act for the Ministers of the Church to be of sound Religion," in which the test of that soundness was directed to be assent and subscription "to all the Articles of religion which only concern the confession of the true Christian faith and the doctrine of the sacraments." What is his Lordship's answer? I give it entire, only interspersing here and there a remark.

"It has been doubted what Articles were here meant; whether all the thirty-nine, or only such as are in the Act specified, as above; some of the thirty-nine having manifestly no direct concern with either 'the Confession of the true Christian faith, or the doctrine of the Sacraments.' *Mr. Bennet, in his Essay on the Articles*, (published, London, 1708,) is cited by our Author as maintaining that all the Articles were intended by the Legislature"—

I interrupt the sentence to place by the side of these words, *without remark, the truth*. My words are these,—“I DO NOT here *enter into the question*, whether *this* Act contemplated subscription to *all* the Articles, because it is needless to moot such a question in the present day.” (p. 8.) And accordingly I have not touched the point, or Dr. Bennet's view of it.

—“And that the words ‘Doctrine of the sacraments’ were added, ‘not as something distinct from the true Christian faith in general, but to denote that κατ’ ἐξοχήν, and in a manner remarkably full and express, our Church had delivered her sense concerning the doctrine of the sacraments, as the greatness, warmth, and importance of the controversies then on foot required.’ That our author should gladly avail himself of such a testimony as this, cannot surprise us.” (pp. 36, 37.)

Nor will it surprise any one who knows anything of “Mr.” Bennet, as he is here called, (as the Bishop evidently does not, though but a moderate acquaintance with the literature of our Church would, it might be supposed, have brought him under his notice) that I give his testimony as one of importance on such a point.

“Neither can we be surprised at his omitting to remark, that the reason given by Mr. Bennet for the Legislature's thus specifying ‘the doctrine of

the sacraments,' is somewhat at variance with the known facts of history. For at the time when the Articles were framed, and even when subscription was enjoined by Statute—times abundant, certainly, in religious controversy—scarcely any one particular was so little the subject of controversy or question as the Church's doctrine of baptism of infants."

This is simply a repetition of his Lordship's blunder of identifying the doctrine of Calvinistic confessions of faith with that of Rome, and a specimen of his grievous want of acquaintance himself with "the known facts of history."

"But I dwell not on this. Any person who has ever read the Statute will only smile at Mr. Bennet's ascribing to the Legislature so pregnant a meaning as he finds in its specifying the Articles of 'the doctrine of the sacraments;' and yet it is only for the sake of this fanciful meaning that his authority has been quoted on the present occasion."

This, in fact, is the only answer attempted; that one who reads the Statute will smile at the remark. I hope it will induce the reader to make the experiment. I can assure him that it will probably *now* afford him a laugh; but whether of the nature which the Bishop desires, I will not undertake to say. Dr. Bennet's authority will, I suspect, last good, long after his Lordship's has become worse than nothing. But I must not omit the last sentence, as it professes to give the finishing blow to poor Dr. Bennet.

"In opposition to it (though it is scarcely worth opposing,) I cite a *contemporanea expositio* of the Statute."

The thing to be opposed, the reader will observe, and the only point at issue, is that the doctrine of the sacraments is fully delivered in the Articles on the Sacraments.

"In 1575, assemblies were held of the Puritan ministers, at which certain conclusions, drawn up by Cartwright and Travers, their leaders, were delivered to the ministers for their direction. The following is one: 'If subscription to the Articles and the Book of Common Prayer be again urged, it is thought that the Book of Articles may be subscribed, according to the Statute 13 Eliz., that is, to "such only as contain the sum of the Christian faith and the doctrine of the sacraments." But neither the Book of Common Prayer nor the rest of the Articles may be allowed; no, though a man should be deprived of his ministry for refusing it.'—(Neal, II. P. i. 278.)"

This is the *contemporanea expositio* which is to prove that the doctrine of the sacraments is not delivered fully in the Articles; being in fact about a totally different question!

Such is his Lordship's attempt to meet the argument from the Act 13th Elizabeth. He commences with putting into my mouth a statement *precisely opposite* to what I did say, in order to lead away his readers from the point in question to one not under discussion; he then proceeds to quarrel with Dr. Bennet's remark on the Articles on the Sacraments, without being able to allege a single reason against it except his own *groundless affirmation*, that it is "at variance with the known facts of history," and concludes by gravely citing "*in opposition to it*," what he calls "*a contemporanea expositio* of the Statute," which turns out to have nothing in the world to do with it, but to relate solely to the question, (not under discussion, but introduced by the Bishop apparently for the purpose of mystification) whether the Act required subscription to all, or only a portion of the Articles.

Is this to be accounted for from mental excitement which has obscured for the moment his Lordship's powers of perception, or is it an attempt to throw dust into the eyes of the reader?

But further; these observations are very remarkable in another point of view. His Lordship has here again supplied a very forcible argument *against himself*. He tells us that there was scarcely anything "so little the subject of controversy or question as the Church's doctrine of baptism of infants." Now I believe that so far as regards the members of our own Church, Conformists and Puritans, this was the case. Nay, in matters of *doctrine* generally we have the testimony of contemporary authorities of the highest order, namely, Pilkington, then Bishop of Durham, and Dr. Bridges, then Dean of Salisbury, (afterwards Bishop of Oxford) that there was agreement between them.

"The *doctrine* alone," says Pilkington, speaking of their objections to the ecclesiastical polity, ceremonies, liturgies, &c., "they leave *untouched*." (Lett. to Gualter, July 1573, Zur. Lett. 2nd ed. p. 425.)

"The controversies," says Bridges, "between the common adversaries, [the Papists] and us, are *pro aris et focis*, for matters, and that capital matters, of the substance and life of our Christian religion; not trifles, as some neutrals would bear the people in hand . . . . *Whereas the controversies betwixt us and our Brethren*, [the Puritans] *are matters, or rather (as they call them) but manners and forms of the Church's regiment.*"—

(Defence of the Government established in Church of England. 1587, 4to. Pref. p. 3.)

And his Lordship supplies us with a proof that they had no objection to subscribing such of the Articles, as, to use their own words, "Contain the sum of the Christian faith and the doctrine of the Sacraments." Now what was *their* doctrine as to the sacrament of baptism? Notoriously the Calvinistic doctrine, or some modification of it. What is the consequence? Clearly that that doctrine was the received interpretation of our Liturgy and Articles at that time.

But in fact, is it possible that the Bishop can be ignorant what was the doctrine held at this period on the subject by some of the most learned men in our Church, Whitaker for instance, and defended,—not against men in our own Church, but—against Romish divines only? I refrain from giving proofs, simply because they will come more properly in another place.

His Lordship next proceeds to travel out of the "Defence" to give a review of the Baptismal Services, which he considers to be his strong-hold. I think it unnecessary, on the present occasion, to do more than direct the reader's attention to the mode in which the service for adults is treated in this review; because the remarks I shall have to make on that point will, I hope, make manifest to every impartial reader, that the principle of interpretation which I contend is to be adopted in the service for infant baptism, *must* be applied to that service, and therefore may honestly be applied to the other; and we shall see also how far even the Bishop of Exeter himself has been compelled to adopt it.

Having informed us that his principle that "*every* baptized child is born again of water and of the Spirit" becomes still plainer by comparing the office for infant baptism with that for adult, in which latter case he admits that the grace is suspended on conditions, he, after comparing the former part of the two services, (where the differences he has noticed are merely those arising necessarily out of the difference of the two cases) favours us with the following account of that part of them which comes after the act of sprinkling;—

"Still further: The *thanksgivings* after Baptism in the two cases are ~~marked by~~ a very broad distinction. In the one, God is thanked 'that it



hath pleased him to regenerate this infant with His Holy Spirit, to receive him for his own child by adoption, and to incorporate him into His holy Church.' In the other, God is thanked 'for calling *us* to the knowledge of His grace and faith in him ;'—and *that is all*. The newly baptized adult is, indeed, subsequently spoken of as 'being *now* born again'—for it would ill accord with Christian charity to refuse so to speak of one who has just before solemnly made his baptismal vow ; but there is no assertion of his 'being dead unto sin, and living unto righteousness,' as of the baptized infant—and that he 'is made partaker of the death of the Son' of God—in other words, hath assuredly received the inward and spiritual grace of Baptism." (p. 41.)

Such is the account which his Lordship gives the public of the Service for adult Baptism. I will not borrow his phraseology to describe its character, but shall content myself with giving the public a little further information on the matter. What are the words of the Prayer-book? Immediately after the act of sprinkling in the service for adult baptism come these words, "Seeing now, dearly beloved brethren, that these persons ARE REGENERATE, and grafted into the body of Christ's Church, let us *give thanks unto Almighty God for THESE benefits*," &c. And of this distinct and deliberate assertion the Bishop takes not the slightest notice. It is of course altogether eversive of his argument, at least in his own view of the meaning of the words. For the declaration of regeneration having taken place is as strong and positive as in the service for infant baptism, while the Bishop himself is compelled to allow that its taking place depends upon the repentance and faith of the party. "In adults," he says himself, "the grace [of the Sacrament] is suspended on the conditions." (p. 41.)

And now let us observe his comment on the thanksgiving, which it would be difficult to parallel.

He tells us that in the thanksgiving for adults, "God is thanked 'for calling *us* [observe the italics which are his own] to the knowledge of His grace and faith in him'—and *that is all*," that is, he would wish us, apparently, to understand that the thanksgiving does not necessarily include the party baptized, though those present had just been called upon to give thanks for the benefits the *baptized* had received. And as to the newly-baptized being spoken of as "being now born again," that is only the language of charity,



“for it would *ill accord with* CHRISTIAN CHARITY to refuse so to speak of one who has just before solemnly made his baptismal vow.” And so, after all the coarse and vulgar invectives which his Lordship and his party have been in the habit of fulminating against certain parties for understanding the language of the service for infant baptism as hypothetical, and that of Christian hope and charity, here is his own confession that he can use the Service for adult baptism himself only in this sense.

Moreover, what his Lordship has quoted is not “all,” for (taking the words his Lordship has quoted in his own sense) the following important portion has been omitted. The words “born again” are followed by these, “made heirs of everlasting salvation through our Lord Jesus Christ;” and a prayer is offered that they may “*continue*” God’s “servants.”

But the richest specimen perhaps of all, is what is added to that which I have just quoted,—“but,” he adds, “there is no assertion of his ‘being dead unto sin, and living unto righteousness’—as of the baptized infant—and that he ‘is made partaker of the death of the Son of God’—in other words, hath assuredly received the inward and spiritual grace of baptism.” That is, the assertion that a man is regenerate and born again, and made an heir of everlasting salvation and a servant of God, is not equivalent to saying that he has “received the inward and spiritual grace of baptism”! Moreover, what says the Exhortation in this same Service? Of this also his Lordship has taken no notice; and this is more to the point than any other part, because there is no opening for a difference of opinion respecting the meaning of words and the construction of sentences. “And as for you who have now by Baptism *put on Christ*, it is your part and duty also, *being made the children of God, and of the light*, BY FAITH IN JESUS CHRIST, to walk answerably,” &c. The language clearly of hope and charity only, for the man may be a thorough hypocrite for aught we can tell; but certainly equivalent to anything that can be found in the service for infant baptism.

His Lordship must be hard driven for arguments, when he

can condescend to such a method of obtaining one as he has here resorted to.

The Service for Adult Baptism, then, though it does not use precisely the same *words* to describe the spiritual grace as that for infants, uses language as clearly maintaining that the Spiritual grace of Baptism has been bestowed. And I now ask the Bishop of Exeter, why others have not just as much right to maintain that he is dishonest,—because while he tells *all* baptized adults that they are regenerate, *now* born again, and made the children of God, and of the light, *by faith in Jesus Christ*, he uses the words merely out of a charitable hope that it is so, but cannot vouch for the fact,—as he has to make a similar charge against *them* for interpreting the Service for Infant Baptism in the same way?

The criticism that follows (pp. 41, 42), on Article 27, is overturned at once by the latter words of the Article—"Faith is confirmed and grace increased by virtue of prayer unto God"—which show that the case more immediately contemplated in the Article was that of adults.

Of his *ad captandum* quotation from Waterland in reply to "*the Arian Whiston*," I shall abstain from further notice than to say that Waterland's reply is precisely what I should have made myself, and that I only wish his Lordship and his party would bear it in mind, that the Articles and Liturgy are "consistent," and that both "mean the same thing."

His Lordship's next argument is this, (pp. 43, 44) that whereas one of the Articles says that Confirmation is not a sacrament of the Gospel, and (speaking of all the five additional sacraments of Rome, of which Confirmation is one) that they "have grown *partly* of the corrupt following of the Apostles, &c.," if the Articles were the sole standard of doctrine in those points treated of in them, persons might rail at Confirmation with impunity. That is, this indirect notice, in the Articles, of what Confirmation is *not*, is to be taken as a regular *treating of* Confirmation. And the occurrence of the rite in the Prayer Book is to go for nothing. If the Bishop thinks this argument will help his cause, let him by all means use it, but he must excuse my wasting time in giving a reply to it.

With respect to the Catechism, (the next point adverted to by the Bishop,) so far as concerns its connexion with the Defence of the Thirty-nine Articles as the standard of doctrine in our Church in the points treated of in them, I shall only say that it is obviously absurd to give a catechism *of this kind*, i. e. one written only for little children, co-ordinate authority with a document drawn up as a formal and public statement of our Church's doctrine on all the great points of faith. If any obscure phrase in an Article can be made plainer by a reference to the subordinate teaching of the Catechism, his Lordship is quite welcome to make use of it; but let him be sure that he is understanding it as it was intended to be understood, and does not bring his own private view of the meaning of the Catechism to override what is plain in the Article.

In fact, as to *subordinate illustrations* of any *phraseology* in the Articles that seems to need such illustration, he is quite at liberty to draw them from any documents of public authority in our Church. Nor does the clause objected to at all exclude such a course, though the Bishop and others (with the usual hot-headedness of mere partizans, desirous of blackening what they dislike) have so represented it.

What the teaching of the Catechism is, I shall point out where I have more space to do so, and am quite prepared to meet his Lordship on the point.

I go to the next argument.

"Will the party with whom we are contending," says his Lordship,

"Still insist on 'the superior authority and pertinency of the Articles over the Prayer Book in the determination of these points?' I answer not in any words of my own, but in the solemn declaration of the Church herself in the Synod of 1604,—at the very time, be it remembered, when this portion of the Catechism was first put forth in confirmation of the former teaching of the Liturgy:—'The doctrine both of Baptism and of the Lord's Supper is sufficiently set down in the Book of Common Prayer to be used at the administration of the said Sacraments, as nothing can be added unto it that is material and necessary.' So speaks the Church in her 57th Canon; and with her authoritative declaration I dismiss all argument on the subject," &c. (p. 46.)

Now here it is at once manifest, that the argument, on the face of it, overreaches itself; for the Articles *were* "added"

by the Church herself, to point out more distinctly and clearly her doctrine upon these subjects. And if his Lordship had quoted the whole of that portion of the Canon of which he has given only a part, the real meaning of what he has quoted would have been seen at once. The fact was, that the Puritans were in the habit of teaching the people that the Sacraments were not *valid* unless accompanied by preaching. In opposition to such a notion the Canon enacts,—

“Whereas divers persons, seduced by false teachers, do refuse to have their children baptized by a Minister that is no preacher, and to receive the Holy Communion at his hands in the same respect, *as though the virtue of these sacraments did depend upon his ability to preach*; forasmuch as the doctrine both of Baptism and of the Lord’s Supper is so sufficiently set down in the Book of Common Prayer to be used at the administration of the said Sacraments, as nothing can be added unto it that is *material and necessary*; we do require and charge every such person, seduced as aforesaid, to reform that their wilfulness, and to submit himself to the order of the Church in that behalf; *both* the said Sacraments being equally effectual whether they be ministered by a Minister that is no preacher, or by one that is a preacher.”

The meaning therefore is clear and obvious enough. Both parties held that some ministration of the word should accompany the ministration of the Sacraments, but the authorities of the Church justly said,—all that is “material and necessary” in that respect is contained in the public services appointed to be used at the administration of those Sacraments. To give the Canon the sense attributed to it by the Bishop, is simply to make the Church stultify herself; for she took good care to *add* her Articles upon the same subject, and make her Clergy subscribe them.

One word more on this passage. The Bishop’s phrasology here in the words, “When this portion of the Catechism was *first put forth, &c.*,” gives very strong ground for doubting his acquaintance with the history of the Catechism itself. It is not correct to say that this portion of the Catechism was then *first put forth*, for it is but a slight revision of the latter portion of Dean Nowell’s third or smallest Catechism, first published in 1572. It was then first added to the Catechism of the Prayer-book; but that is another matter. This was long since pointed out by Archdeacon Churton, in his *Life of*

Nowell; and I can testify to its truth, having been for some years in possession of the volume. This Catechism of Nowell is no doubt extremely rare, and the Bishop's statement has consequently often been made, but it is not the less incorrect.

After this maltreatment of the 57th Canon, his Lordship haughtily turns his heel upon all opponents, as not worth further notice, announcing, "So speaks the Church in the 57th Canon; and, with her authoritative declaration, I *dismiss all argument on the subject*. . . . . deducing from it the manifest duty of our acknowledging and preaching. . . . . that in that blessed Sacrament [of Baptism] spiritual regeneration is the express and *assured* gift of God;" apparently not remembering that he does not believe himself the abstract proposition he has here put forward.

And he proceeds to point out the very shocking fact, that some of the Clergy have actually spoken of his doctrine of baptismal regeneration as a grievous error. And he tells us that they "seem to be, in their opinions, the successors of the 'godly persons' of two centuries ago." But his Lordship is wrong here nearly a century. For "their opinions" are, that they are the successors, not of the "godly persons" who pulled the Church down two centuries ago, but of those who built it up nearly three centuries ago. Facts, my Lord, will last much longer than fiction.

But I will be quite candid with his Lordship, as I love fair dealing. If his Lordship can find any who, while they disbelieve his doctrine of baptismal regeneration, do at the same time (from whatever cause) believe it to be the doctrine of our Church, he will not find my humble voice raised in defence of such persons. And I will add, that I have always held, supposing the account I heard of a case occurring in his diocese some years back to be true,—namely, that the rite and Office of Confirmation were openly impugned as unscriptural and superstitious, that his Lordship was more than justified—bound in duty—to call such a person to account for his palpable violation of his subscription.

But such cases are *toto cælo* different from that now under consideration. They are no justification of his Lordship's

attempt to eject from the Church all the Clergy who do not take all his views of the meaning of portions of the Liturgy, which he ought to know, if he does not know, were not (to say the least) the *prevailing* views of their meaning in the best times of our Church.

There remains one more passage to be noticed ; of which, as it is impossible to characterize it correctly without using terms which I leave for his Lordship's exclusive enjoyment, I shall only take such notice as may enable the reader to form a correct judgment respecting it. I had pointed out in my pamphlet *the plain and undeniable matter of fact* that the words of the Act of Uniformity restrict the meaning of the words " assent and consent " in the Declaration, to *the use* of the Book of Common Prayer. The words of the Act that precede the Declaration are, that the party shall " declare his unfeigned assent and consent to THE USE of all things in the said Book contained and prescribed, in these words, and no other." There can be no doubt about the meaning of this, where common sense is allowed to act. And it is important to observe this context of the Declaration, distinctly declaring the sense in which it is to be made, because the words of the Declaration itself, standing alone, might be strained (and have been strained both by Churchmen and Dissenters from various motives) to mean that the phraseology was in every case the very best that could be adopted, whereas there are many who can heartily assent and consent to the truths and principles which they believe the compilers of the Book of Common Prayer intended it to express, putting a Protestant interpretation on it (as for instance Archbishop Whitgift's interpretation of the Consecration and Ordination Service, &c., instead of the Popish), and consequently to the use of the Book, while at the same time they may think that it would be better now at least, if some parts were not open to a Popish interpretation, especially when they find a Romanizing party actively at work in the bosom of the Church itself.

And while pointing out this fact, I carefully added the following remarks,—

" *Morally*, I must earnestly maintain that they [i. e. the declarations required by the Act of Uniformity] are of equal force [with that of the

36th Canon], *because no man ought to give his assent and consent to the use of all things contained and prescribed in the Book, who thinks any part of it 'contrary to the Word of God.'*" (p. 10.)

Again,—

"Am I then here advocating liberty being granted to the Ministers of the Church to give or withhold their assent to the Prayer-book as accordant with Holy Scripture? Far from it. . . . By the 36th Canon, all ministers will still be required at ordination, institution, &c. to testify by subscription their belief that the Prayer-book 'containeth in it nothing contrary to the Word of God, and that it may lawfully so be used.' ANY MAN, THEREFORE, WHO BELIEVES THAT ANY PORTION OF THE PRAYER BOOK CONVEYS UNSCRIPTURAL DOCTRINE, WILL BE BOUND AT ONCE TO RETIRE FROM A MINISTRY WHICH HE CAN ONLY LAWFULLY EXERCISE THROUGH THE INSTRUMENTALITY OF A SUBSCRIPTION TO THE CONTRARY EFFECT. And if he does not do so, and attempts to propagate his view of the unscriptural character of any portion of the Prayer Book, he will still be most justly amenable to the Ecclesiastical Courts as one who is VIOLATING HIS SUBSCRIPTION AND BREAKING FAITH WITH THE CHURCH." (pp. 26, 27.)

The notice of this fact, however, though thus carefully accompanied by these explicit statements, guarding it from the possibility of abuse, has roused his Lordship's ire to an extent that has made him lose apparently, for the time, both self-respect and self-control; and, after an abusive invective of which I shall take no notice, and garbled quotations, he concludes his tirade in these words,—“He declares, it seems, his ‘assent and consent’ only to the use of it—RESERVING TO HIMSELF THE RIGHT OF BELIEVING, OR NOT BELIEVING, AS HE MAY THINK BEST.” (p. 50.) Fifteen times, and those spread over two months, did the unhappy writer of this passage solemnly deliver it in a Charge to his Clergy, and now deliberately publishes it to the world. He has the temerity to claim the “disgust and indignation” of his hearers and readers towards the party he thus misrepresents. I willingly leave them to apportion those feelings where they believe them to be deserved. And I will add, that if he supposes to carry all before him by foul language, and conduct such as he has here been guilty of, his triumph will be at most short-lived, and certainly terminate in his own indelible disgrace.

And now for the fact itself which has thus moved his Lordship's ire, and which with deplorable ignorance he speaks



of as an “expedient” of mine for invalidating the force of the Declaration. “The Godly Preachers,” says his Lordship, “at the time when the Act of Uniformity passed, *and when therefore its intentions could hardly be misunderstood* [which I hope the Bishop will recollect presently] were not equally astute.” And he then proceeds to quote from Calamy (Life and Times of Baxter) (who, he tells us; by another blunder, was one of the ejected ministers, confounding him with his father, this *contemporary* authority not having been born till ten years after) the objections made by the ejected Ministers to the Declaration required by the Act.

I will now therefore give the Bishop, in return, the reply to those objections, from the pen of one of the best of the Church’s sons at that very period, *published in 1662, immediately on the passing of the Act*, and “when therefore its intentions could hardly be misunderstood.” Thus speaks Dr Fulwood, then Archdeacon of Totnes, in reply to such objectors. After pointing out to them that they had overstrained the meaning even of the Declaration *taken alone*, he adds,—

“But for the *perfect removal of any such scruple for ever*, let the Act *interpret itself*. The words immediately foregoing this Declaration are these. ‘Every minister . . . shall declare his *unfeigned assent and consent to the Use of all things in the said Book contained and prescribed in these words and no other* ;’ they are the words of this Declaration. Mark ; we must declare our unfeigned assent and consent. To what? not *simply* to all things, but to all things with *respect* to their *use* : to the use of all things in the said Book. But in *what words* must we declare for the *use* of all things in the said Book? in *these words*, and no other ; and they are, as was said, the words of the Declaration. The plain *meaning* of the Act appears therefore to be but this : while we declare, in *these* words, viz. of the Declaration, we do but declare our unfeigned assent and consent to the use of [the] Common Prayer : which if we can lawfully use, we do but declare, that if we do conform, we do nothing *against our consciences* : or that, we do unfeignedly assent and consent to the *use* of *that* which we ourselves either *do*, or *can* use. And, *as if our Governours had purposed to make this their meaning AS PLAIN AS THE SUN*, they have at least twice more given us the same interpretation of those words. In page 74, such as are hereafter inducted must declare their unfeigned assent and consent. To what? Why, to the use of all things therein ; that is, in the Book of Common Prayer contained and prescribed. But how, and after what manner? Why, according to the Form before appointed ; that is, in the Declaration. The like we have again, page 83.” (The Grand Case of the present Ministry, 1662. 12mo. pp. 11, 12.)



And in his "Review of the Grand Case," in answer to a dissenting reply to it, published in the following year, he repeats and insists upon this as the clear sense of the Act. (pp. 43 et seq.)

And to those who stumbled at the Declaration, only from considering it to imply their belief in the absolute perfection and optimist character of everything in the Book, while on the contrary they thought some parts injudiciously worded, though they had no objection to use the Book, this explanation might have sufficed. But the fact was, that most of those who then refused to take the Declaration were not satisfied that *any good sense could be placed* upon some portions of the Liturgy, and were dissatisfied with some of the ceremonies prescribed and other matters, and therefore could not consent to *use* the Book; and of course the required Declaration was represented by *the whole party* (in the usual spirit of party movements) in the blackest possible light. They were glad to avail themselves of the Declaration detached from the context which pointed out its meaning, to misrepresent it. Hence the large number of those who refused to take it.

Again, in 1674 was published, by a theologian of well known name and ability, Dr. Falkner, a book entitled "Libertas Ecclesiastica, or a Discourse vindicating the lawfulness of those things which are chiefly excepted against in the Church of England, especially in its Liturgy and Worship." Now what is his explanation of the Declaration.

"It is first to be considered, that as to assent, when referred to things asserted, is to own the truth of them; so when referred to things to be done ordered or used, it is to allow that they should be put in practice: in which latter sense, *assenting* is one and the same with *consenting*. Now *the Act of Uniformity*, both immediately before this Declaration, and in divers other places, *referreth this unfeigned assent and consent to the use of the things in that Book contained and prescribed*; and thereby directeth us to this ordinary sense of the word assent: as doth also *the nature of the things to be assented to, which for the main part are prayers, &c.*" "Its most proper and natural sense [i. e. of the word assent] must import a consent to or allowing of *the use* of these things, which is the sense unto which *the expressions in the Act of Uniformity do also plainly direct.*" "Wherefore by this Declaration is given such an open vocal approbation of this Book, required by law, as agreeth in sense with the subscription enjoined by Canon. And the intent thereof is, to express such an unfeigned allowance or consent, to all things contained and prescribed in the Book of Common Prayer, with the Psalms, as that they may *warrantably and with*

*good conscience be used*, [his own italics], as they are established by authority." (Third Edit. 1677, pp. 91—96.)

"The subscriptions or declarations required amongst us (besides what the present concerneth the covenant) are, an acknowledgment of the King's just authority, to secure the Government; of *the Articles of Religion*, TO PRESERVE TRUTH OF DOCTRINE: and of the Liturgy and Book of Ordination, to maintain *order and uniformity*." (Ib. p. 88.)

These last are nearly the words I have used in my pamphlet. Still more observable are the expressions of one of the most learned and able prelates our Church ever had, Bishop Tillamfleet. So far from having even any doubt on this subject, he thus *complains*, in his Sermon on "the mischief of separation," of the *misinterpretations* of the Nonconformists.

"It is a very hard case," he says, "with a Church, when men shall set their wits to strain every thing to the worst sense, *to stretch laws beyond their intention and design of them*, to gather together all the *doubtful and obscure passages* in Calendars, Translations, &c., and *will not distinguish between their APPROBATION OF THE USE and of the CHOICE of things*, upon such terms as these men think to justify the present divisions. I much question whether, if they proceed in such manner, they *can hold communion with any Church in the Christian world*."—(Sermon on Mischiefs of Separation, 1680. 4to. p. 49.)

Moreover, this very passage of Calamy, quoted by the Bishop, was replied to on behalf of the Church by a Clergyman of the name of Ollyffe, who defends, expressly and ably, at some length, the same view. But it is needless to add to such authorities as I have just quoted. I will give, however, as an answer to the Bishop's argument, (borrowed also apparently from his dissenting authority, Dr. Calamy), that the declaration must have greater force than the subscription required by the Canon, otherwise it would not have been ordered; of which he justly says, "The Common Prayer Book had then been long disused, and many of the people prejudiced against it. The Governors might think it would revive the honour of it before the people, to have such a declaration made openly in the Church. The subscription was and is a private thing, done perhaps in the Bishop's chamber; and therefore the same thing in substance was ordered to be declared publicly, and before the people." (2d Def. of Minist. Conformity, p. 104.) Which is surely a very sufficient answer.

What might be the reason that the word "use" was not put into the Declaration itself, or whether there was any particular reason for omitting it, will never perhaps now be known. Whether it was thought that it might be thus laid open to misinterpretation in the minds of the people, who, knowing generally of no other Declaration or Subscription being made, might take a wrong view of the light in which the Book was regarded by the Church, or whether the wording of the Act was the result of a conflict in Parliament on the subject (which is not the most improbable supposition), it is impossible to say. If the latter, then clearly what is unjustly called the Low Church party carried the day; for a distinct definition of the sense in which the Declaration is to be made overrides every argument drawn from the Declaration itself. At any rate there is a plain statement of the sense in which it is to be taken; and the abuse of his Lordship, or any body else, can make not the slightest difference in the matter: it is as the idle wind beating against a rock.

That this sense should appear *now* to be new, I regret. But if people will not read the whole of a document, or consult contemporary authorities for its meaning, even in matters so nearly connected with the discharge of their own peculiar duties, but content themselves with bits and scraps separated from their context, and the testimony of deeply prejudiced writers, it is not my fault; and certainly the case will not be made better, by their falling into a passion with one who calmly and historically states a fact of which they were ignorant.

The reader is now in a position to estimate the character and value of his Lordship's attack upon me for my statements on this point.

The Bishop is indebted, however, to his dissenting referee for one more argument on this subject. The ejected ministers, he triumphantly informs us, (pp. 51, 52), refused to give their assent to the Common Prayer, because (among other reasons) it taught (i. e. they held it to teach) "the doctrine of real baptismal regeneration and certain salvation consequent thereupon;" and his very logical conclusion is, that therefore all those who do *not hold that doctrine*, ought, like them, to refuse to subscribe to the Book, and *quit the Church*.

Now, then, I will take his Lordship at his word, and will prove to him that *on his own shewing*, and *according to his own express words*, if he is "honest," and has not regard only to his own "temporal convenience," &c. &c., (for other like phrases, see his Lordship's Charge) he ought immediately to resign his bishopric, and retire from his ministry in the Church. For his dissenting friends adduce *another* objection to the Prayer Book. They could not give their assent and consent, &c. &c. because "*they could not consent to pronounce ALL SAVED that are buried, except the unbaptized, excommunicate, and self murderers.*" And this they are perfectly clear that the Book does. "The priest must not only say, that God took away all such persons *in mercy, in great mercy*, but also *positively affirm* that God *took them to himself*, i. e. into heaven . . . They could not see how *charity* would excuse dangerous errors and *falsehood.*" And so they left the Church.

Ah! my Lord, *they* (as you would say) were *honest* men. They would not stay in a Church which forced them to declare, that all buried by a priest (with but very few exceptions) were undoubtedly saved. Let us hope, then, that your Lordship and party will (to use your own words towards us founded upon a similar argument) "follow the example which those faithful sufferers for conscience' sake have left behind them, to their own honour, and to the *shame of those* who, believing as they believed, [that *all* such *are* declared by the Church to be saved, though they are *not*], have not *faithfulness* to suffer as they suffered."

Which will his Lordship resign? His Bishopric or his irrefutable argument? Perhaps, after all, it will be the latter.

My Lord, it is dangerous to put one's hand into a hornet's nest (I do not use the word invidiously), for the pleasure of extracting one to sting a neighbour with.

Thus ends his Lordship's answer to the "Defence of the Thirty-nine Articles."

Now certainly this "Charge" is a very choice specimen of the learning, judgment, and other qualifications of its author to lay down the law for the Church, particularly in the point which he has taken under his special protection, and selected as the *first* to do battle for in his Ecclesias-

tical Crusade ! How great the value of its Author's conclusions, put forth with a vituperative arrogance, by which he seems to expect to brow-beat all opposition ! But he well knows that such a mode of handling a subject has great effect with some persons. If they are unprepared upon the point, it is irresistible. It is like a troubled whirlpool. If their strength is unequal to the current, they are inevitably carried away by it. I will stake my life upon it, says his Lordship *virtually*, that all who do not agree with me in my view of the matter, are, beyond all possible contradiction, fools or knaves. Who can resist such an argument ? Certainly not a very large number of the Clergy, who, immersed in parochial duties, having never even received a *clerical* education, away from access to the sources of information, are necessarily unable to meet the statements of one who speaks with all the sources of information open to him, able to cull *where* he pleases, and *how* he pleases, and moreover speaks, as it were, *ex cathedrâ*.

Well, but now comes the "Appendix," attached to this weary piece of polemical rhetoric ;—the especial sting properly reserved to its appropriate place. The Bishop thinks he has found out, that in the course of the last six years I have changed my mind as to the position to be assigned to the Prayer Book in enquiries respecting the doctrines of our Church ; and therefore, after an endeavour to prove his point by quotations from my work, called "The Divine Rule of Faith," he concludes his whole effusion by "tendering *an apology* to his Clergy" for having "occupied so large a portion" of his address to them "in discussing the statements of *SUCH A WRITER*." What a contemptible fellow "*such a writer*" must be for speaking now differently on such a point (*which, by the way, he has not done,*) from what he did six years ago !

But now, whatever others may think, is *his Lordship* really of opinion that a period of six years is so very short a time for such a change ? His Lordship asks if I will plead for a "Statute of Limitations." Now, if I asked for one for *six years*, and only for *such* points, is his Lordship quite sure that he would be satisfied with it himself ? Be advised, my Lord, for once. While we are about it, let us have a Bill of In-

demnity for Conversions on the shortest notice, and on all points great and small. Nothing else would be worth having.

The characteristic exordium respecting my "faculties of moral perception, "honesty," &c., I have already noticed. So let it pass. The first crime discovered by his reference to my former work is, that though I had quoted the 51st Canon there, I "could not discover" it "when its production would have been fatal to my principle."

To this I shall only reply (as I have noticed the point already) that when his Lordship shall have *proved*, instead of *merely asserted*, that the 51st Canon is "fatal to the principle" I have maintained, (which in fact I have very good reason for calling a mere error of his own), it will be quite time enough to defend my "honesty" and "faculties of moral perception." Until then, I am quite satisfied to permit the Bishop of Exeter to substitute abuse for argument without any further reply from me.

"But," adds his Lordship,—

"This is a trifle: I proceed to graver matters. Will it be believed that this same writer, who now extols the Canons of 1571 as of the very highest and most unquestionable authority, citing them to establish his great position, that 'the Articles have been *made use of by the Church*, as *the test of doctrine and standard of faith*,' and saying of them that they were 'promulgated with the Royal assent in 1571,' and 'published by authority' in the same year—will it, I ask, be believed, that this same writer, in that his most grave work, set forth by him 'against the errors of the authors of the Tracts for the Times,' one of their errors being that they had cited one of these Canons—*which very Canon is now cited by himself*—[his Lordship shall have the full benefit of all his italics], speaks of them in the following terms, (Vol. II. p. 588): 'The Canons of 1571, *having never received the Royal confirmation*, were never put in force, and *are of no authority*.' He actually quotes Collier's 'Eccles. Hist.' ii. 531, to show that 'Archbishop Grindal *therefore* demurred to the execution of these Canons; he was afraid a *Præmunire* might reach him!' Nay, he refers to Archbishop Wake's 'State of the Church,' &c., to show that even if they 'had received Queen Elizabeth's confirmation, they would not be of any authority *now*, for her confirmations extended no further than her own life.' [Which it is important to observe, as I neither *did* intend nor *do* intend to leave these Canons 'a crutch to stand upon' in the point discussed in the 'Rule of faith' respecting them.] Further than this, in order to leave these unfortunate Canons not a crutch to stand upon, he adds, 'On this ground they are expressly excluded from *the Canons of our Church*, that is, *the Canons that are of authority*, by Bishop Gibson, (Cod.

Pref. x. xi.), who limits '*the Canons*' to those of 1603,' (the italics are his own.)" (pp. 65, 66.)

I give the whole passage, that there may be no possible plea of my having had an object in keeping back any part. I can have no wish to do so. A very few words are necessary to show the ludicrous impotence of this attempt to establish an inconsistency in *any part* of these statements, except in one remark, *entirely immaterial to the point in question in either work*, which I shall notice presently. The argument has been got at by tacitly *confounding* the question of the *legal authority* of the Canons of 1571,—that is, whether they form part of our present Ecclesiastical *Law*,—with that of their *historical authority* as proof of a fact. The point in question in the "Divine Rule" was the former, and with a slight *modification* of one statement *quite immaterial to the conclusion*, I should repeat word for word what I have there said. The point in question in the "Defence of the Articles" is whether the Articles were intended to be the standard and test of doctrine in the points treated of in them. And of course one "of the very highest and most unquestionable authorities" (I adopt the very words the Bishop has put into my mouth, the better to serve his purpose, though they are not mine) on such a point, is a Canon of the very Convocation (that of 1571), that presented them in their present form to Parliament for its sanction. This is so obvious, that while I decline to retort his Lordship's observations about "honesty" and "faculties of *moral* perception," I beg to ask him, whether he did or did not see it. If he did not, he had better cease writing, or at least bringing such charges against others, until the mist in which his mental excitement on this subject has involved him has cleared off, and he can really distinguish one thing from another. It is as dangerous to walk in an intellectual fog as in a physical one. Surely he must blush to see the puerilities into which his intemperate haste has betrayed him.

As it respects the question whether the Royal assent was or was not given to the Canons of 1571, (my statement in the "Divine Rule" being that it was *not* given, *which however made no difference in the point then under discussion*, as I there



pointed out), I shall merely say, that further research has induced me to think that the Royal assent *was given orally but not in writing*, and therefore not so as to give them legal force; which accounts for Grindal's unwillingness to act *legally* upon them, and also better explains his expression to Parker, when, after saying that the Royal assent ought to have been given "in scriptis," he adds, "fine *words* fly away as the wind, and will not serve us, if we were empleaded in a case of *præmunire*;" which was one main reason inducing me so far to modify my view as to think that an oral assent was given. It was unnecessary to notice this distinction specifically in the "Defence," because it made no difference in the historical value of the Canons for the purpose for which they were quoted; indeed the Queen's sanction at all was not *necessary* to the validity of the argument. But it so happens, that in the second edition of the "Defence of the Articles" (printed long before the appearance of this "Appendix" to the Bishop's Charge), I have stated this to be my view, and given authorities for it. I leave it now to the ingenuity of his Lordship to point out how this affects *the point in question*, either in one work or the other.

"But," the Bishop proceeds, "even this is not all, no nor the most surprising of all." And then comes a quotation, to prove, beyond all contradiction, the inconsistency of the statements of the two works; and certainly the acuteness of his Lordship's perceptions just now deserves to be immortalized for such a discovery.

"What will these admiring readers," asks his Lordship, "think of their author, when I lay before them the following statements from his former very elaborate work—which has only this day come under my eye, while these sheets are passing through the press? [Ah! my Lord, fingers are often burnt through undue haste.] 'THE *dogmatical works of authority* in our Church are, first, those which have received *the highest degree of authority*, namely, *the Articles, Homilies, and Catechism*, (of the existence of the *Catechism* he takes no notice in his Defence, &c.;) and, secondly, those which have received the Ecclesiastical and Royal Sanction, but not that of the whole Legislature, namely, Jewell's Apology, and Nowell's Catechism. The testimonies given in the Note below, abundantly prove that *these latter works are of no inconsiderable authority as faithful representations of the doctrine of our Church.*' (I refer, therefore, to the passages cited from them by me, pp. 11 and 15, 'as faithful representations' by the admission of this writer, 'of the doctrine of our Church' on *Baptism.*)'—



I break off for a moment to assure his Lordship, in reply to this incidental remark, that he has the *full* "admission of this writer" that these passages faithfully represent the doctrine of our Church. But is he quite sure that he loves the good old Dean so well himself, now that he knows a little more about his Catechism? It must be admitted, however, that his Lordship's argument in favour of his view from Nowell (and Jewell was in the same boat with him) is a *striking* one. I doubt if it will soon be forgotten. And in all seriousness I would beg the reader to observe the way in which his Lordship here again presses his extract from Nowell's Catechism as something quite *conclusive* in proof of *his* doctrine on baptism being the doctrine of the Church of England, while it has turned out to be taken from John Calvin. What possible value can be attached to the conclusions of such a writer?

As to the degree of authority here given to Jewell and Nowell, of course it does not interfere at all with the Clause.

And as I have stopped, I will just say a word as to the Homilies and Catechism.

Of the former, does his Lordship deny that it is a dogmatical work of authority in our Church, or does he wish to erect it as a whole into a verbal Standard of doctrine like the Articles? If he does not, (as I suppose he does not), but leaves it the place assigned to it in the Articles, he cannot charge me with any inconsistency here.

Of the Catechism, of which, as he correctly says, I have taken no notice in my "Defence," I say as I have said before, that it is simply absurd to raise a Catechism for little children into a co-ordinate authority with the Articles. And as to its doctrine, I am quite ready to meet his Lordship on that point.

But as we have now come to the end of my list of "THE *dogmatical* works of authority in our Church," I beg to ask his Lordship where he finds the Liturgy. He will reply, Give the next sentence; which I shall willingly do presently, but I must first remark that, for his Lordship's argument, the Liturgy ought to have come into this list, and here *it is expressly excluded*. And now let us see the *terms* in which it is mentioned in what follows.

"But he proceeds: 'The indirect [mark, *INDIRECT*,] sources from which *the doctrine of our Church is to be gathered* are, *first*, our authorized

LITURGICAL [I willingly repeat the Bishop's capitals] forms and ecclesiastical laws, &c. By these documents [i. e. *all* that have been mentioned, and according to the station assigned them] let us test the views of the Tractators.' 97, &c. [597, &c.]"

Let us observe, then, where the Liturgy is placed in this passage, which is to convict me beyond all contradiction of the most woful inconsistency. It is *expressly excluded* from "the dogmatical works" of our Church, and it is placed among such *indirect* sources of information on the subject of the doctrine of our Church as our "ecclesiastical laws." I have no hesitation in saying, that if I wished to make any alteration in this passage, it would be to give the Liturgy a higher, rather than a lower, place, by pointing out that there were some points not treated of in the Articles in which we must meet error by the Prayer Book. His Lordship must have bewildered himself to bring this passage against me on the present occasion, for it takes *expressly* and *nominatim*, so far as the great point—that of the Liturgy—is concerned, the very same ground on which the "Defence" is written.

To deny that doctrine might *to a certain extent* be *INDIRECTLY gathered* from a Liturgy, would be to say, not merely that the worship of all the religions in the world was exactly the same intrinsically, but even that there were no religious truths at the foundation of any of them—a simple absurdity.

And bearing in mind the express statement I have made in this passage, respecting the way in which alone the Liturgy can be used as a source of information respecting the doctrine of our Church, the meaning of the next passage,—which his Lordship describes as "richer than all which have preceded, in illustration of" my "faithfulness to" my "own principles,"—is transparent; and it does not help the Liturgy to a place *one whit higher than that given to it in the last*. Here is the passage as his Lordship quotes it, with his own italics.

"And the authorized guides in our Church for the interpretation of Scripture, and by which, of course, *her members must be judged*, are the Articles, Homilies, Catechism, Liturgy, Canons of 1603, and *those Canons, &c., received previous to the Reformation, &c.*" "*These received guides* are occasionally joined with the Scriptures as *the tests of error and heresy in our Church*. (ii. 622.)"

The order in which the documents are given is precisely the same in both passages, but because I have not here again drawn the distinction between the *character* of these different sources of information, although I have done it in the very same volume, his Lordship would insinuate that I have made the Liturgy a dogmatical work !

His Lordship asks, "What will the writer say to these matters?" He has seen already what I have to say to them. And I doubt not every impartial reader will agree with me, that his attempt to fix upon me the charge of inconsistency, from the statements of the "Divine Rule" and the "Defence," turns out to be as pitiful and futile an attempt as can well be conceived. Nor will his Lordship's self-confident and vituperative denunciations bring conviction to any but those who are convinced *before-hand* of their truth.

I have now carefully gone through the whole, both of the Charge and the Appendix, without leaving a single point unnoticed. The reader will understand, therefore, that this answer meets not merely what appeared the most vulnerable statements, but *all* the statements of the Bishop on the subject. And I cannot but think, and I suspect few who have followed this review of his Lordship's Charge will differ from me in thinking, that, at least, he has something, nay many things, of very much more gravity and importance to "apologise" for to his clergy and the public, in his Charge, than the fact that he has attempted to answer in it the Defence of the Thirty-nine Articles.

## POSTSCRIPT.

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THIS reply to the Bishop of Exeter has been published at the earliest possible period after the appearance of his Lordship's Charge (in the last week of August) *under its author's name and sanction*. No Newspaper report of it could, of course, be taken as a sufficient authority to act upon. There was therefore no way of avoiding its having the run of the Newspapers for some time (the Visitation alone occupying about two months) without a reply. I state this, lest persons unacquainted with the circumstances of the case should think that there has been any unnecessary delay in answering it.

W. G.

September 19, 1848.



THE  
LAWFULNESS  
OF  
MARRIAGE  
WITH A  
DECEASED WIFE'S SISTER,  
EXAMINED BY SCRIPTURE.

*IN A LETTER TO A FRIEND.*

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Reading, July 1848.

MY DEAR FRIEND,

I send you the result of my inquiry into the lawfulness of a man's marriage with his deceased wife's sister, premising that I entered upon it with a feeling that such connexions are, *as a general rule*, undesirable; but that, after all, the mind of God upon such a subject is to be followed, if it can be fairly ascertained. The passage of Scripture bearing on the subject is as follows:—

“Thou shalt not uncover the nakedness of thy brother's wife: it is thy brother's nakedness. Neither shalt thou take a wife to her sister, to vex her, to uncover her nakedness, beside the other in her life-time.”—LEV. xviii. 16, 18.

First, then, as to the translation. “A wife to her



sister" is a Hebrew phrase, often used instead of the words "one to another." Thus, in Exodus xxvi., 3, 5, 6, 17, where the *curtains*, *loops*, and *tenons* are spoken of, the expressions "one to another," "one of another," "together," "one against another," are literally "a woman (or wife) to her sister."

So in Ezekiel i. 9, 23, iii. 13, in reference to the *wings* of the living creatures, the expressions "one to another," "one toward another," "one another," are literally as before—"a woman (or wife) to her sister."

Hence it has been argued, that in Leviticus xviii. 18, these words ought to be translated, "Thou shalt not take *one wife to another*," and that the object of the prohibition is to forbid *polygamy*. The answer to this is distinct and conclusive. The literal rendering of the Hebrew words in the 18th verse is, "and a woman (or wife) unto her sister thou shalt not take." Now, if it ought to have been translated as in Exodus and Ezekiel, it would have required a different form of expression, namely, "Thou shalt not take *wives*, a woman to her sister," or "one to another;" just as, in the passages referred to, we always find some noun, "curtains," &c., and then the words "a woman to her sister" follow. We are compelled, therefore, by the language of the passage, to understand it as translated in our version; and not to construe it as a prohibition of polygamy. It might be added, that facts are also against such a construction, as it is

notorious that polygamy was not deemed to be prohibited amongst the Jews : and Bishop Patrick and others, who are opposed to the lawfulness of the point in question, still admit that the whole context requires that the words be taken in their *literal* and not in their *figurative* sense ; and that the translation of the former clause in our version is certainly correct. This point may, then, be considered as disposed of.

But we come, next, to the words “ in her life-time,” which it has been attempted to turn in various ways : such as, “ Thou shalt not take a wife to her sister to vex her all her life long ;” or “ to be a burden upon her in her life,” &c. &c. Now I do not hesitate to say that no sound Hebrew scholar would ever have thought of such a version, unless it were to answer a purpose. The words are fairly and properly translated in our Bible, and there is not the slightest reasonable ground for such alterations—which, to say the least, are most unnatural, if the Hebrew will indeed bear them at all ; and every one knows the tricks which may be played with a particle or preposition. But when the alteration is made, nothing is gained ; for after all, the prohibition turns on the *vexation*, which could only be in the life-time, and therefore dies on its own ground when the wife dies, who alone could be its object. And so thoroughly, if I mistake not, does the Jewish commentator Abarbanel see this, that he even maintains that the sister may be married *in the life-time* of the other, if vexation would not ensue.

I deem it, therefore, settled beyond any reasonable doubt, that our version is perfectly correct : and, what then, is the amount of the prohibition in this passage in its natural and unforced interpretation ? Simply this : Polygamy was allowed among the Jews ; and it was not unnatural, as a consequence, to marry two sisters at the same time. But this, as in the case of Jacob, led to great vexation and jealousy ; and therefore is forbidden under the circumstances in which alone these results could occur, namely, the life-time of the first wife. But for these circumstances, it would not have been forbidden at all ; or, if a *total* prohibition had been intended, the circumstances would not in any reason have been alluded to. After, therefore, the death of the wife, it follows as a matter of course that the husband might marry her sister. Such I believe must be the *unprejudiced* impression from the passage : and I now proceed to consider whether this view is strengthened or overthrown by other considerations.

Secondly, then, I would state the views of the Jews themselves on the question ; and these may be briefly summed up under the four following heads :—

(1.) They do not understand the verse to forbid polygamy.

(2.) They do not understand it to forbid marriage with a deceased wife's sister after the wife's death ; but, on the contrary, that it expressly allows it.

(3.) They do understand it to forbid the marriage of a wife's sister while the wife is living.

(4.) They understand it also to forbid the marriage of a wife's sister *after the wife has been divorced*, while she is still living—a case not at all unlikely to occur among those with whom divorce was so common.

Surely, then, there can be no doubt as to the right understanding of the passage, with the light thus thrown upon it.

But, thirdly, the 16th verse, which forbids a woman to marry two brothers, except in the special case in which it is afterwards commanded, is urged against the natural meaning of these words.

Now, if the 16th verse had stood alone without the 18th, there would have been strong ground to assume the converse; though even then, perhaps, this would have been assuming too much: for it is quite possible to suppose (and probably this is not far from the truth) that the union of one woman successively to two brothers might involve some mixture of kin, which would not be the case in the union of one man successively to two sisters; and some singular analogies, which cannot be detailed here, would seem to render this probable. But however this may be, if the 16th verse had stood alone without the converse being mentioned, the safer ground might have been to have assumed the

ing could possibly have tended to defeat it than stating it as it is. The converse being mentioned at all, the 16th verse could not *necessarily* its being mentioned as specially to be particular case brings it, if words mean the well-known condition, that "the e. the rule."

Fourthly. The prohibition with regard to and *grand-daughter* of a wife (v. 17), be near of kin, is urged in favour of the proposition we are considering. It may be deemed superfluous to notice this after what has been the object of this letter is fairly to canvass the difficulties, without evasion, and, if possible, to remove everything. I admit, then, at once that at all, properly speaking, in these instances notwithstanding, marriage is distinctly more than

sight of God and man, “in loco *parentis* :” and the case would scarcely be considered different in reference to a grand-daughter. But in no case does a wife's sister necessarily come under the care of her brother-in-law, nor does the connexion involve, as in the other case, the positive duty of his protection. Seeing, then, that a distinction is clearly made in the Word of God in the two cases, this seems quite sufficient to account for it.

Fifthly. It has been urged by some that the *Levitical* law is not binding upon *us* ; and that, therefore, after all, we must decide the question only by such light as we can get upon it in connexion with the *present* dispensation. Now let the former part of this statement be admitted, yet it may still be fairly remarked, that the Levitical law *has* much to do with the case. For (1) there is nothing in these enactments peculiar to the *Jews* as *Jews* : what was right for them in these matters must be right also for us ; and therefore (2), though their law be not *binding* upon us in such things, still it enables us to ascertain the mind of God upon points equally concerning us all : and it can scarcely, therefore, be supposed that such enactments would not have, or ought not to have, the greatest weight in guiding the decisions of a Christian mind.

Sixthly. The judgment of the Councils and of the Reformers on this point ought certainly not to be

passed over : and I am not one disposed to underrate the value of such a judgment in such a case ; still, it is to be considered that many things were enacted by those very same Councils, which Scripture either condemns, or does not warrant : and that the Reformers themselves, in matters of *comparative* indifference, sometimes acted upon their impressions, without fully going into the merits of each particular point. We have reason, too, to believe that their interpretation of the Levitical law formed the basis generally of their decisions on these matters ; and I am quite disposed to think that in this respect we have those in our own day quite as capable of forming a correct judgment as they were. At the same time, I admit that those who plead the judgment of the Church *on such a point as this*, through so many ages, have a strong *primâ facie* ground to stand upon : and I believe that this circumstance, conspiring with private aversion to the marriage of persons too nearly connected, has led almost all the opponents of the contemplated alteration to an unfavourable decision. It has caused them, in short, to set aside altogether the absolutely necessary interpretation of the Levitical law, and to affix to it a sense favourable to their own views, without attempting to ascertain what is its real meaning, or grappling with the passage in its honest and natural sense. The sixteenth verse is therefore treated and argued upon, and pressed, just as if the eighteenth did not exist.

It only remains that I briefly state the conclusions

to which I have been compelled to come after a careful review of the whole matter.

On the one hand, I can understand the feeling of many both of the present and past generation who disapprove of such a connexion, and to whose judgment I am willing and anxious generally to defer. On the other hand, expediency suggests many reasons for allowing it, though it has also something to urge, less strong, I think, against it.

But, to my own mind, the question turns on *none* of these points ; but on one which takes precedence of them all,—namely, *its lawfulness in the sight of God*.

If it be *unlawful* in the sight of God, the question is decided at once. If it be *lawful*, then I go upon the broad ground that, *in such a case*, no man has a right to impose a restriction on his fellow-man, which God has not imposed ;—that the doing so can only bring a snare upon the conscience, and be the occasion of sin ;—and that no sanction of human law can be expected ultimately to succeed in enforcing what a man feels is no transgression of the law of God.

In this case, for instance, the supposed *evil* of the marriage may possibly be prevented ; but the



Further: that *it is lawful*, according to God, I consider incontrovertibly proved in Leviticus, of which I feel sure I have the only correct translation. The view (and their authority in such a case cannot fully bear out all this; and the sixteen and seventeen verses do not militate against it in such circumstances, and in the face of such do not deem the Councils, Canons, &c. establish the opposite view.

I have only to add, that, as I believe I have treated this subject with sincere impartiality, I trust those who conscientiously think these views are opposed, will not be content with mere declamation, which proves nothing. Let them compare fairly with the statement here made; and, if it is weak and groundless, expose it unsparingly.

ready in that case to yield at once: but to make up one's mind first on a question, and then to *seek*—that is, to *invent*—arguments to sustain one's opinion, is the part not of him who desires to know truth, but of him who is taking the readiest way never to find it.

Leaving the above to your candid judgment,

I remain, my dear Friend,

Yours very faithfully,

C. J. GOODHART.







**OP'S CHARGE TO THE LAITY,**

**IN ANSWER TO**

**ISHOP'S CHARGE TO THE CLERGY.**

**BEING**

**TWO DISCOURSES ON CHURCH AUTHORITY  
AND SACRAMENTAL EFFICACY.**

**BY**

**THE REV. BREWIN GRANT, B.A.,**  
**MINISTER OF HIGHBURY CHAPEL, BIRMINGHAM.**

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**1848.**

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N.B.—The following Discourses were occasioned by the Lord Bishop of Worcester, delivered to the Clergy in Birmingham, Aug. 7, 1848. The subject, however, is of permanent interest.

By the same Author,  
**THE CHURCH OF CHRIST—WHAT**

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**WAR CONDEMNED BY THE LAW OF GOD,  
CAN RECEIVE NO VALID SANCTION FROM  
OF MAN.**

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**A SERMON ON HUMAN DUTY AND DIVINE  
WORK OF SALVATION.**



**S E R M O N**  
ON THE  
**BISHOP OF WORCESTER'S CHARGE,**  
AUGUST 7, 1848.  
**ST. PHILIP'S CHURCH, BIRMINGHAM.**

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LUKE xii. 57.—“*Yea, and why even of yourselves judge ye not what is right?*”

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It is the duty of every man to extend the truth and especially truths of the highest consequence ; it is particularly the duty of every professed Minister of the Gospel to watch, and if possible to direct, the current of the public mind,—to join in whatever promises to advance pure and undefiled religion, and to exert his influence, however small, to prevent or diminish whatever threatens to overthrow the Gospel, or to impair its energy. There may be no unbecoming boldness in doing this, but there must be great deficiency, or moral cowardice, in shirking so imperative a duty.

We have already, on a former occasion, given a pledge of our intentions on this subject, by troubling you with an exposure of certain “philosophical tendencies,” and the same necessity is laid upon us, as to the ecclesiastical tendencies of the age. We trust no fair-minded person will ever see any occasion to condemn in our efforts of this sort, any greater absence of toleration, candour, and courtesy, than is the invariable attendant on the weakness of fallible men. We confidently hope that no honest prejudices or convictions will ever be wounded or insulted, in any such attempt to declare what we believe to be the truth. And we request only the same candour that we exhibit.

Fierceness is not argument, and bigotry is neither honesty nor truth ; but without either of these, we may give a plain statement of our views, and they who should be offended thereat, are the persons who lack the charity which they enforce upon others.

That love, which can afford no difference of sentiment, is of a very sickly and sentimental kind ; and they have yet to learn what christian charity, and manly freedom are, who can unite for common affection, only after settling a common faith ; who, before loving their neighbour as themselves, must first hear their neighbour's catechism ; and never shake hands but over a



creed ;—writing over the door of their affections,—this universal requirement,—“rehearse the articles of thy belief.”

Many persons will, no doubt, be ready to censure the position we have assumed on this occasion,—both amongst churchmen and dissenters will be found those who will condemn without hearing, and charitably conclude, that we are violating all the claims of charity.

Indeed there are many Dissenters by position, who are not so in principle, and who, to justify their own lukewarmness, will shew their charity towards others, by condemning their brethren. But we call upon all such to hear a matter, before they judge or condemn it, and then they may find, that those who are the most earnest for the truth, know best how to speak it in love.

Others, again, will say, “but why speak against these errors, since those most involved in them will not come to hear you?” to which the answer is plain, that these men must and would hear, if all who profess to love a pure gospel, would bear an honest testimony ;—if those both in and out of the church would maintain the supremacy of Christ, the sufficiency of the Scriptures, and the spirituality of religion, against the Puseyite, or Anglo-catholic returns to the relics of popery,—in the worship of a church and its sacraments ; men must hear, if such would not have their hands tied by any articles of peace, or other false alliance, in which the Gospel is sacrificed to etiquette. Those misled by anti-christian superstitions, could not but hear, if others would speak out, clearly, boldly, and reasonably ; not avoiding controversy for the sake of a truce with error—to be at peace with falsehood. And besides, whether men will hear or forbear, we must lift up our voice against prevailing errors, since we are not responsible for their ears, but for our tongue.

We are far from insinuating that the Lord Bishop would directly join in any Romish aspirations ; but we are clearly convinced that he has unwittingly fallen into the fatal tendency, of discussing religion apart from the gospel, and holding up a church as something between God and the people ; which, however innocently done, is the sure method of putting out the light of divine truth, and overshadowing men’s minds with the dismal eclipse and night of church authority. His Lordship’s intention evidently was to meet and check certain Puseyite tendencies, to slide back into the Roman Catholic ritual ; but he fights against these with the catholic weapon of the church’s authority, and so loses his footing the first blow he strikes ; for the Church of England, as a Protestant establishment, cannot stand on its own authority, but must take up the Protestant maxim, and lead people from the Articles and Catechism to the Bible.

We shall here adduce some of the main points of the Bishop’s charge :—

“The bishop proceeded to deliver his charge, which was in substance as follows :—The clergy had been called to the discussion of doctrines which had been considered settled ever since the Reformation, such as those of baptismal regeneration, the sacrifice in the Lord’s Supper, auricular confession, and the power of absolution given to the priest. It had always appeared to him that it was a *bishop’s duty, as far as his ability and learning would enable him, to remove doubts and to settle differences which might have arisen in the discussion of such subjects as these amongst his clergy.* In the present charge he proposed to do this; and first, with regard to the *vexata quæstio* of baptismal regeneration. *Considering, as he did, that the Articles of the Church were the most proper authorities to refer to in controversy,* he should commence his explanation of the doctrine by a reference to the 27th Article, in which they found it *stated that regeneration was conferred in baptism,* of which the ablution in water was the visible and acknowledged sign. The best way of explaining this Article, was by a reference to the 9th Article, ‘of original sin,’ where every person born into the world was declared to be worthy of death. The effect of baptism was to relieve infants of this defect of original sin, for *being by nature the children of wrath, they became by baptism the children of grace.* These Articles and the Church Catechism set forth, in a very strong light, baptismal regeneration as *a doctrine of the Church.* And this view of the case was amply supported by the offices for baptism and confirmation; for in the former, before baptism, it was prayed that the child might be regenerated, and after baptism it was declared that he was so regenerated; and in the latter office, when baptised persons took their vows made in baptism upon themselves, they were spoken of as having been regenerated by water and the HOLY GHOST. In the face of this concurrent testimony, it was impossible to deny that the doctrine of baptismal regeneration was a doctrine of the Church. But a question arose whether this *truth* (?) had not been somewhat exaggerated. It would be a doctrine of vital importance, if *our salvation depended upon it*—and in the *case of infants* it was *undoubtedly* so, for infants dying before they committed actual sin, were saved; but with regard to the great mass of those who survived infancy, *how few kept their baptismal vows.* They *believed* the grace of GOD’S SPIRIT to be conferred in baptism, but they also *knew,* from their own feelings and experience, and from the experience of others, *how easy it was to grieve the Spirit,* and it was to this occurrence that in most, if not in all cases, a *species of second regeneration* was needed, before they could make ‘their calling and election sure.’ Was there *one* who could say that, since baptism, or even since confirmation, he had kept *all God’s holy will and commandments* all the days of his life? If he had not done this, *what avail to him was the laver of regeneration in baptism?* By baptism a man truly was placed in the way of salvation; but if he had fallen from it, he must turn again to *Christ,* before he could receive the blessing of God. This change had been called by some regeneration, by others conversion, and by others renovation: and as the strongest advocates of baptismal regeneration admitted the necessity for some such change, were they not merely quarrelling about words? When, therefore, the necessity for this conversion, or, if they would, renovation, was preached by some of the clergy, it was not inconsistent with baptismal regeneration, *for they were indeed saved by baptism.* In *illustration of this doctrine,* his lordship quoted from the works of *Bishop Beveridge* a passage to the effect that baptism put its recipients on the way to heaven, but that if they neglected to carry out their vows, the mere fact of having been baptised into the church would not save them. The next thing for consideration was the *mysterious doctrine of the LORD’S Supper.*

“It was said of the fathers, that when taunted by the surrounding heathen with having a worship without a sacrifice, they had declared the sacrament of the LORD’S Supper to be a sacrifice; but in *considering doctrine they were not to go to the fathers, but to appeal to the Articles of the Church.* Sacrifice implied an altar, but they knew that at the Reformation all altars were removed, and tables substituted in their places; and it was the more remarkable, as *settling the opinion of the Reformers,* upon this point, that the *orders of Queen Elizabeth* for removing altars, had been founded upon the recommendations of the divines, who urged that tables were more in accordance with the institution of CHRIST and the language of the HOLY GHOST; for while they found in the New Testament mention of ‘the table of the LORD,’ the ‘altar’ was not so much as mentioned. It was true, that the word ‘altar’ occurred in the coronation service, but *that service had only been sanctioned by the Privy Council, and never by the Church,* and the word, therefore, might have slipped in through inadvertence.

case of the Articles. When disagreement  
ties had arisen with reference to religious matters, and  
view to settle the matter, those articles would naturally

“ And it was the *intention of the compilers of the*  
standards of faith in the Church of England. This was  
Bishop Burnet upon the point; and if they turned to S  
that he spoke of the Thirty-nine Articles as received as  
Church of England, and also gave a paper drawn  
in which it was proposed to make the controvertors of t  
as for heresy. It was impossible to doubt that the Arti  
the endless disputes which had previously existed from t  
ges in the liturgy.

“ It would not be found, upon a comparison, that the  
were at issue; but if there seemed to be, or was, any dis  
*should be inclined to give the preference to the Articles,*  
after due deliberation, and being drawn up when men ha  
were farther *removed from the leaven of Popery than the*

“ His lordship then concluded by recommending the cl  
Burnet, ‘to bear with one another, and not to disturb th  
Church by insisting too peremptorily on matters of doubt  
ling to leave to all that liberty which *the Church* left to th  
them still.’ ”

Before entering into an orderly examina  
we may make a few general observations.

The first thing that will strike a Protestan  
all reference to the Bible, as deciding contr  
opposition to the general spirit and expres  
church articles themselves. For though th  
once mentioned, it is given simply as a book  
ers quoted to Queen Elizabeth; not as a bo  
body’s hand, and to which every one ought  
contrary, we are told that the A—  
most proper

would not satisfy a puseyite, who can as properly take one part of the church's doctrine as another.

It is, moreover, a strange admission of his lordship, that the prayer-book has more of "*the leaven of Popery*," and yet this is what constantly comes before the people, and constitutes the ritual of Public Worship, whilst the articles form no part of public ministrations. Hence his lordship seems to have little faith in what is almost idolized in his own church; and *he pleads for its doctrines against its worship*.

The statement respecting the coronation service, that it "had only been sanctioned by the Privy Council, NEVER BY THE CHURCH," throws a doubt on the Divine right of our Most Gracious and Religious Sovereigns; and, moreover, indicates the insincerity of the church in conducting a service which it has not sanctioned; for we suppose that Roman Catholic Priests are not allowed to consecrate a sovereign, who is sworn to Protestantism, as essential to wearing the crown. And further, we may observe, it appears strange that after articles have been drawn up to settle controversy, the clergy themselves should be in doubt, and require instruction as to what the church thinks; it appears more strange still, that a knowledge of the *church's* views should settle *their* doubts as to the *truth* of the doctrines in question; but most strange of all, that a knowledge of the church's doctrines should require the peculiar learning and ability of a Bishop:—less learning and ability would teach all humble inquirers something infinitely beyond the mind of the church,—namely, the mind of Christ.

The concluding sentence from Bishop Burnet,—that the clergy should leave to all the liberty the church has left to them, and which *she* still allows them,—is very peculiar: first, how does the church allow liberty to those for whom she provides thirty-nine articles, which they are to believe, and a prayer-book, according to which they shall worship?—and, secondly, who gave the church liberty to allow liberty to any?—*that* is a precious gift of God; and like his truth, is free to every man, whatever churches or articles may say to the contrary. And, finally, we may observe, that this charge is but a slender production, and, doubtless, no more worthy to be a fair specimen of his lordship's ability and learning, than it is worthy to settle the doubts of his clergy, or to meet the "emergencies and fluctuations" of the present times.

But to be more orderly, in examining this subject, we shall notice three things:—

I. That an appeal to the *Church of England*, as an authority, is UNMEANING.

II. That to appeal to its Articles, Prayer-book, and Catechism, is USELESS.

III. That to appeal to this church, or any other—to these Articles and Ritual, or any other—is DANGEROUS.

I. An appeal to the Church of England, as an authority, is UNMEANING. And here we shall answer the question, *who the Church of England is?* We mean here, that church which delivers her testimony in the shape of thirty-nine Articles: before we receive a witness's evidence, we should know his character, and hence the value of the testimony. What THE CHURCH OF CHRIST is, we have already answered, in a small tract, within most persons' reach;\* those who have the means and leisure for fuller consideration, should obtain and read Archbishop Whately's "Kingdom of Christ." "The visible Church of Christ," says the 19th Article, "is *a* congregation of faithful men, in the which the pure word of God is preached, and the sacraments duly administered." Here the reference is plainly to a single church or congregation, not an association of churches; but one assembly of worshippers; and Archbishop Whately admits (what cannot be denied indeed), that the primitive churches were separate and independent assemblies of believers, having no authority over each other, but bound together by common sympathies. Now, one of such churches, is by the 19th Article called *a* visible church of Christ; but the 20th Article says, that "'the,'" or rather "'a' (such) church, hath power to decree ceremonies, and authority in matters of faith." That the reference is to a single assembly, is evident, by the notice of "the church of Jerusalem," 19th, (which should be, the church *at* Jerusalem.)

Now, if an assembly of believers have this power, the decision of this church, in Highbury chapel, is binding, as a matter of faith and worship, and possesses as much sacredness as the decision of any other church.

But was there ever an expression given by the various assemblies of worshippers belonging to the Church of England? did these worshippers ever have any hand in settling the Articles? No; except in the sense of Dr. Francis Hare, Lord Bishop of Chichester, who, in 1720, published a vindication of Scripture, and therein says, that the direction of our Lord, "tell it to the church," means, tell it *to the rulers of the church*: and also, that Paul's letter to the Corinthians, about the incestuous person, was a direction to the leaders to excommunicate him, a statement which is certainly not supported by the epistle itself; for in the first epistle, 5th chapter, they are directed, *when gathered together*, to exclude such an one; and in the second epistle, ii. 6. we are told, sufficient to such a man, is the punishment inflicted *by the many*, that is, by the assembled believers,

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\* "The Church of Christ—what is it?" Published by the British Anti-State-Church Association, price three half-pence.

by the generality of the church members. And, therefore, the term church does not mean the clergy, but the body of believers as well; and this also the Articles assert. Now, did the Church, or churches, of England, ever give any testimony, to which we can now appeal? No; but we are constantly being told of *what our reformers thought, or intended*. Speaking of the reformation under King Henry, Bishop Burnet says, the worship was reformed, “and in that a foundation was laid for the Articles, which came quickly afterwards, how, or BY WHOM they were prepared, we do not certainly know: questions were framed relating to them, these were given about to *many bishops and divines*, who gave their several answers, that were collated and examined.” “Without a miracle, they could not have been agreed to by the major part; they were prepared, as is most probable, *by Cranmer and Ridley*, and published *by the regal authority*.”

THIS was *then* the Church of England! but where were the assemblies of faithful worshippers?

Prefixed to the Articles, we read this announcement:—“Articles whereupon it was agreed by the Archbishops and Bishops of both provinces, and the whole clergy in the convocation holden at London, in the year of our Lord God, 1562, for the avoiding of the diversities of opinions, and for the stablishing of consent, touching true religion, put forth by the Queen’s authority.” In 1571, these Articles were revised, and “were subscribed” only “by the Archbishop of Canterbury and ten bishops of his province, nor does the subscription of the lower house appear,”\* as in the former case. *So far then, THERE HAS NOT BEEN ANY DECISION BY THE CHURCH OF ENGLAND*, on matters of faith and worship; that is, not by the church, in the scriptural sense, which sense is adopted in the Articles; but *the clergy, or part of them*, who ministered in the churches at that time, signed these Articles, whilst they were, of course, drawn up by still fewer hands. To talk therefore of the church, as imposing Articles, is a mere fiction: the frequent saying, “as our church declares,” is an absurdity, whilst to believe, because the church imposes, is impiety, if not idolatry. Does not this view of things diminish the undefined awe with which men regard the authority of the Church? Where, and what is that authority? Not in the people, for they are to listen to the Church; not in the bishops, for they still appeal to the Church; not in archbishops, for they do the same. What then is the Church, if thus it be something independent of the people, the bishops, and archbishops? The whole magnificent theory comes down to this, in the bishop’s words,—“*THE INTENTION OF THE COMPILERS OF THE ARTICLES*,” which according to Bishop Burnet, were probably *Cranmer and Ridley*! or if you cannot decide

\* Burnet on the Articles.

what they worship, but they who  
of England, as imposing certain A  
revere.

II. We proceed, then, to observe,  
the Articles and Prayer-book, which  
received from private compilation an  
appeal to these Articles and ritual, is  
religious doubts : for 1st. the church  
ity of Articles, is nothing in the s  
which has truth for its object. Sin  
nothing ought to be enforced in crea  
from the Word of God, that proof w  
creed ; but a creed is of no authorit  
proof. Of what value therefore is it, 1  
that is the compilers of the Articles, th  
thought in a certain way? The q  
right or wrong? Religion is not faith  
And therefore, an appeal to Articles, 1  
ship the most proper authorities, suc  
the authority is of no value in itself, b  
of Scripture, which is enough without  
is false without it.

But this appeal is useless, second  
to Articles which have no authority  
of unknown



above guides: and which being intended by the compilers to furnish a standard of doctrine, and "to prevent the endless disputes that previously existed," awaken further "doubts and differences," to be "settled," not by further Articles, but by the "learning and ability" of the Lord Bishop!

And further it is, he says, disputed, whether the Articles be the standard: and if they *be*, we may observe there are further differences, as to their interpretation: "Some," says Bishop Burnet, "have thought that they are only Articles of *Union and Peace*; that they are a standard of doctrine not to be contradicted, that the sons of the church are only bound to *acquiesce* silently to them." But he shows that the clergy are bound to "*a consent of opinion*," not merely to a consent of silence!

The Royal declaration of James the First,—ordering a stop to be given to certain disputes, "shutting them up in God's promises, as contained in the Scriptures and Articles," commands, as a further stop to disputes, that "no man hereafter should put his own sense to be the meaning of the Article, but should take it in the literal and grammatical sense." Does this grammatical sense, then, leave no loophole for debates? Bishop Burnet expressly says, that the above declaration implies first, "that the subscription *does* (!) import an assent to the Articles;" and secondly, that "an Article being conceived in such *general* words, that it can admit of different literal and grammatical senses, even when the senses given are plainly contrary one to another, yet both may subscribe the Article with a good conscience, and without any equivocation." For instance, "the third Article, concerning Christ's descent into hell, is capable of three different senses, and all the three are both literal and grammatical." After showing in which three senses this Article may be understood, Bishop Burnet proceeds, "If men *would*, therefore, UNDERSTAND all the other Articles, with the same largeness, and with the same equity, there would not be that occasion given for unjust censures, that there has been."

Have these sources of dispute been removed, and do they not exist in our days, as well as in those of Bishop Burnet? If the Articles have become a plain rule of faith, why should educated clergymen require the aid of the higher learning and greater ability of their bishops, to settle their doubts as to what the Church thinks?

We shall only indicate the nature of present controversies on this subject. First, it is questioned whether men are to believe the Articles sincerely, or whether they are articles of peace, and just mean that you will not oppose them; in fact, that you submit in silence, as a dutiful son of the Church. Secondly, whether if you are to believe them, in what sense you are to believe them; first, according to the actual meaning of the words; or, secondly, according to the meaning of those who imposed the Articles;



which leads to the inquiry, first, who did impose them, and, secondly, what would their meaning be, which leads to a further search into the writings of the English Reformers; or, are you, thirdly, to believe them in a non-natural, or puseyite sense, like Mr. Ward and the Anglo-Catholic party.

And surely this is enough to prove that our present Bishop's late appeal to the Articles is *useless*, first, because they have no authority, and, secondly, because they have *no certainty*.

THIRDLY, we have to shew that this appeal to articles or to churches is DANGEROUS.

First, because it admits the method of the Romanizing portion of the English Church, and increases the irreligious tendency of appealing to something else than the Author of religious truth. By this means, the Bishop *gains his point, and ruins his cause*; like an unskilful general, who aims at taking a certain position, and by this stratagem exposes his whole army. To prove what the Church of England thinks, is of no force to men who argue that other churches may, on the same principle, be appealed to, and that these views in the Church of England are counteracted by the Prayer-book, and need a reform back again into popery. It is dangerous, then, as against Puseyites, for they can bring overwhelming church authority in favour of their points; and as to Catholics and Dissenters, the argument of the Bishop would be beside the mark, for Catholics would say, "what right has the Church of England to think?" and Dissenters would say, "on what scriptural ground does the church think as it does?"

The whole question is turned by the Bishop into a balance of human authorities; in other words, it is a combat of this sort; the compilers of the Articles, against all antiquity, and nearly the whole of modern Christendom, a sadly disproportionate weight against the Protestant side. But if the Bishop had put in the Bible, that would have outweighed Catholic churches, Puseyite tendencies, and Protestant Articles into the bargain.

But why does England profess to leave Rome?—On her own authority, as being superior? or on the authority of the Bible?—then why throw down her bulwarks, and expose her palaces, by advancing an authority she did not commence with, and abandoning the true line of defence,—“the Bible,” I say, “the Bible only, is the religion of Protestants.” Thus has the Bishop, to gain a temporary advantage, covered up the Church, with the pasteboard defence of its own Articles, instead of placing it on the Bible, as within the munition of rocks. This appeal then, is dangerous, as being the suicide of Protestantism.

Secondly, it is dangerous, as committing those who make it, to the reception and defence of all the unscriptural rites and doctrines of the church whose authority is pleaded. We may

soon see, how the Bishop is incommoded by the contradictory and unscriptural rites and doctrines, involved in the wholesale defence of the Church of England, on its own authority.

Take the Doctrine of the Sacraments :—

“ The sacraments ordained of Christ be not only badges or tokens of Christian men’s profession, but rather they be certain sure witnesses, and effectual signs of grace, and God’s will towards us, by the which he doth work invisibly in us,” etc., (25th Article.)

Now it cannot be proved from Scripture, that the sacraments are any such thing ; they are signs of our faith in God ; and we *receive no more grace by them, than by any other way of worship and obedience.* That their effect depends upon the gracious character we bring to them, is admitted in the Article on Baptism, which says it must be received “ rightly ;” but especially in the Article on “ the Supper of the Lord,” which is effectual only to “ such as rightly, worthily, and by faith receive the same.” How then can these be certain signs of God’s grace working in us, when they can be received without any grace at all ; nay, may become the means of condemnation ? Is it a sign of the Church, or a sign of God ?—for it *is a false sign, since the thing signified often does not take place.* But the falsehood is on *our* part ; we do not so much receive Christ in the Sacrament, as acknowledge by that Sacrament *that we habitually feed on Christ.* As the Apostle says, Christ our Passover is sacrificed for us, therefore let us keep the feast ;—and what is that feast ?—merely partaking of the ordinance ?—no ; but making our life a spiritual sacrament, of which the outward partaking is the visible sign which we give, and which Christ has commanded us to give, in remembrance of him, openly to celebrate, what is not done merely at the table, but in every act of faith,—living on Christ.

Baptism, we are told, is “ not only a sign of profession,” “ but it is also a sign of regeneration, or new birth, whereby, as by an instrument, they that receive baptism rightly, are grafted into the Church, the promises of the forgiveness of sins, of our adoption to be the sons of God by the Holy Ghost, are visibly signed and sealed.”—(27th Article.)

The Bishop refers to this Article, in proof of baptismal regeneration, but he does not tell us what is meant by receiving baptism rightly ; whether it refers to the disposition of those baptized, or the authority of those who administer the rite : this is a sad omission, since the Puseyites say, that only the true successors of the Apostles are able to confer this great blessing of regeneration ; and since no man can trace his pedigree to the Apostles, it is uncertain whether any were ever yet regenerated. And if not, they are still children of wrath. But if



doctrine, says the Bishop, if our salvation depended on it. Then, does not our salvation depend on being regenerate and adopted? In the case of infants he admits it to be vital, because they, dying before committing actual sin, are saved—that is, if baptized; if not, Christ will not suffer them to come to him; *he did at first*, but then the case is altered *now*, and they must receive a ticket at the font.

How easy is it, says the Bishop, to grieve the Spirit, and so require a *species of second regeneration*. So that we are not only to be born again by baptism, but born several times over! And having lost the grace of baptism, we are to return to Christ; would it not be better to return to the font? But, in truth, no one ever lost the grace of baptism, for he never had any to lose.

Take any twenty baptized and regenerate children, ‘members of Christ, etc.’, compare them with an unbaptized one; is there any difference? Now, the doctrine of baptismal regeneration is more absurd than transubstantiation, for this is opposed to our senses, but that is opposed to our reason and experience. And we shall shew, next Sabbath evening, that baptismal regeneration is founded on the same figurative abuse of Scripture as transubstantiation.

And, again, how will the Bishop make this baptismal service correspond with the strong Calvinism of the 17th Article? That Article speaks of a certain number elected to eternal life, to be in due time called, adopted, and regenerate: is this due time the time of baptism? And is God’s election the same as the priest’s declaration, which makes all baptized children regenerate? And does this Calvinism admit of several new births? Does it sign the Confirmation Service, and make every one elect who can say the Catechism? We need scarcely appeal to the Scriptures to overthrow this divided house.

Is not the whole system of the Church rites a contract for saving all who go through them, beginning with the fiction of regeneration in baptism, confirming this fiction at a visitation, and sending men into eternity with the same fiction in the burial service? What, then, has all this to do with ‘filling up the number of God’s elect,’ unless God’s elect be the Church’s elect?

We will not stay to inquire long into another ceremony—consecrating the burial ground\*; but simply ask, Is it consecrated to God, to the dead, or to St. Michael? and who is St. Michael, that he should own a church and a cemetery? It is time these things were either done away with, or proved according to Scripture.

Is it not, then, DANGEROUS to appeal to the authority of a church which is encumbered with such contradictions and superstitions?

\* The cemetery and church of St. Michael, consecrated by the Bishop.

We shall trouble you with but one other illustration of this point. The Bishop refers to a book, on the power of the clergy respecting absolution, 'utterly renouncing all authority to absolve his fellow-men;' yet, in the service for the visitation of the sick, the minister is to say, 'By his authority, committed to me, I absolve thee from all thy sins, in the name of the Father, Son, and Holy Ghost.' If this does not contradict the Bishop's view of church power, then we may as well say that it is no blasphemy.

The same or greater authority is assumed in the consecration of Bishops. 'Then the Archbishop and Bishops present shall lay their hands upon the head of the elected Bishop, kneeling before them, upon his knees, the Archbishop saying, **RECEIVE THE HOLY GHOST.**' This, like the former, can be explained away by taking the words in a non-natural sense, as some, indeed, interpret them: Mayest thou or I pray that thou mayest receive the Holy Ghost; or, I declare that thou wilt receive it; which is equal in ingenuity to the savage chief who, for a long time, kept his tribe in awe by commanding the sun to rise at its proper times; but when they found out that this command did not make the sun rise, he explained himself as merely foretelling *that it would rise*.

Into such inconsistencies and violations of truthful language are men betrayed, by appeals to a church's authority, or ritual and Articles: therefore we say, it is troublesome and dangerous.

But, thirdly, it is dangerous, as fostering that hereditary faith, and submission to imposing human names, which debases mankind, and dishonours Jesus Christ. "If another shall come in his own name," says the Saviour, "him ye will receive;" "but woe to them by whom the offence cometh." Archbishop Whately shews the danger of receiving implicitly, any system of doctrines, without constant reference to the Scripture, as indeed tending to supersede the Scriptures; and of this he gives a historical illustration—"Among the Parliamentarians at the time of the civil war, there were many who professed to obey the king's commands, *as notified to them by Parliament*, and levied forces in the king's name against his person;" so it is plain that any one receiving Christ's commands through a church, may, by that church, be led against Christ, and so rebel against—they *cannot depose nor execute*—their King.

At the great festival of the "Corpus Domini,"—the body of Christ without his Spirit—at Florence, we are told (after a description of the hosts of priests and citizens), "all these confraternities, black, white, red, and grey, marched with huge tapers in their hands, throwing their sullen smoky light with impotent insolence in the face of the blazing sun's majesty.\*" Now this is

\* *Athenæum*, No. 1080, p. 679.

the train of church lamps, and human torchlights, obscuring the Sun of Righteousness. We cannot but admit that the evangelical clergy of the Church of England are, in some respects, free from the charge of throwing the Bible into the shade, though they speak much of "the Articles of our church;" but they are in an unfortunate position, and seek to counteract by their sermons, the effect of the ritual, both baptism, confirmation, and burial; by insisting on the necessity of being connected with Christ. But this is at a great disadvantage, for though, in the pulpit, they are dissenters against the desk, the food they give there is no remedy for the poison imbibed in the orthodox declarations respecting regeneration, and other *church promises which nullify the promises of God*. Nor does this effect end with the Church, it represses the efforts of those outside, by the deadly nightshade of extending church authority, and hence to the efforts of others, the answer is readily given, "we goes to church," though that means to christenings, confirmations, and funerals.

It remains, therefore, for the clergy to counteract these tendencies, to abandon ancient and unscriptural falsehoods, to worship truth and not articles, earning to themselves the commendation bestowed on Thomas Scott:\* "he rendered to his party the inestimable service, of showing how their distinguishing tenets may be deduced from the sacred canon, or reconciled with it, and of placing their feet on that which Chillingworth had proclaimed as the rock of the Reformation."

And we may commend to those high in authority, as indeed to all men, the saying of Dr. Arnold, "Where can we find a name so holy, as that we may surrender our whole souls to it, before which, obedience, reverence without measure, intense humility, most unreserved adoration, may all be duly rendered? *One name* there is, and one alone, in heaven and earth; not truth, not justice, not benevolence, not Christ's mother, not his holiest servants, not his blessed sacraments, nor his very mystical body the church; but *Himself* only, who died for us, and who rose again, Jesus Christ, both God and man." Then if this be adopted, a second Arnold would no longer think respecting nearly all English divines, that there was "a want of believing or disbelieving anything because it is true or false."

And, whether such warnings be regarded or not by the leaders of the English Church, we trust the people will not surrender the people's book, but read, and prize, and follow it, as the oracle of divine wisdom, and man's highest light, able to make us wise unto salvation; to these, therefore, we would utter the motto of this discourse,—whatever others say, learned or unlearned—"Why, even of yourselves, judge ye not what is right?"

\* Edinburgh Review, July, 1838.

## BAPTISMAL REGENERATION.

**Matt. iii. 11.**—"I indeed baptize you with water unto repentance, but he that cometh after me is mightier than I, whose shoes I am not worthy to bear; he shall baptize you with the Holy Ghost and with fire."

WE RETURNED on the previous occasion, to show the analogy between the doctrines of transubstantiation and baptismal regeneration: showing more fully the scriptural bearing of the latter doctrine than which we could not then enter minutely; but were sensible to point out the inconsistency of that doctrine with the Catholicism of the same Church's Articles; and the futility as well as danger of appealing to anything short of the Word of God. To that word we now appeal against the human standards which are erroneously called the "proper authority in controversy."

There is this advantage, in variety of denominations, and freedom of expression, that men may thus be led to examine the foundations of their faith: and so have a healthy belief, instead of the feeble hereditary faith, which consists only in subscribing to a creed. And this is why the Bible gives us no formal articles, which would in time become stereotyped ignorance, or the shibboleth of intolerance: whereas we are left to personal inquiry, close and devout study, by which the truths become convictions, and elements of character.

Indeed we ought occasionally to review our foundations, that our faith may become firm, by an acquaintance with reasons, without which our minds are empty, and prepared not so much to embrace the truth, as to echo party symbols.

To deliver men from the thralldom of human authority in general, was the object of the former discourse; and to show the fallacy and assumption of priestly power, on one particular point, is the object of the present address: that whilst other bishops appeal to the clergy, on the ground of articles, we may appeal to the people, in the name of the Bible.

In considering the doctrine of baptism, we shall notice three things:—

I. What is said about its spiritual effects.

II. Why this is said; on what scriptural grounds it is defended.

III. And, thirdly, why it is false. In other words, what they say, why they say it, and why they should not say it.

1. What is said about the spiritual effects of the rite of baptism.

And on this subject we shall adduce four classes of witnesses:—



1. the Primitive Fathers, 2. the Church of Rome; 3. the Church of England; 4. the Puseyites.

1. The views of the primitive fathers. Amongst some of these the opinion was that, except in cases of martyrdom, "no man could be saved without being baptised," hence they admitted of baptism by laymen, in cases of necessity. And whereas it was debated when baptism should take place,—on the second or third day after birth, or as in circumcision be deferred until the eighth day, "Cyprian, sitting in council with sixty-six bishops, wrote a synodical epistle," to say that baptism need not be deferred so long, and that none were to be forbidden baptism and the grace of God.

When something like discipline was settled in the churches, we are told that two especial seasons were appointed for baptisms, Easter and Whitsuntide; Easter in memory of Christ's death and resurrection, typified in baptism; Whitsuntide in memory of the Holy Ghost descending at the day of Pentecost, "the same being, in some measure, represented and conveyed in baptism." Those who underwent the rite were presented with a white garment, together with this charge, "Receive the white and immaculate garment, and bring it forth without spot before the tribunal of our Lord Jesus Christ, that thou mayest have eternal life." These "were worn for a week after baptism, and then laid by in the church. From the wearing of these, Pentecost came to be called White Sunday."

Fonts were at one time placed in the porches, to indicate that baptism was an "entrance into the mystical church." The recipients of baptism stood with their faces towards the west, which, as the opposite to the east, belonged to the Prince of Darkness, whom they thus renounced openly, and repeated a confession of faith. Both infants and adults are said to have had *undertakers*, who stood as sureties. And next came a kind of exorcism, or an expulsion of the Devil; also an "insufflation," or breathing in the face of the baptised person, to bestow the Holy Ghost! Then unction or anointing and next immersion, which is said to "express the three great ends and effects of baptism," Christ's death, burial, and resurrection, and the individual's conformity unto these. The immersion was performed three times, to represent, as some say, the three persons in the Trinity; as others say, Christ's *continuance* in the grave three days. St. Augustine takes both these reasons; though it is not explained how *coming out* of the water three times, represents Christ's *staying in* the grave three days.\* These specimens are sufficient to indicate the notions of the primitive fathers and churches on this subject, and by "*primitive*" we mean THE CORRUPT AGES that succeeded the first preaching of the gospel.

\* See Cave's Primitive Christianity, Part i. Cap. 10.



And here we find the doctrine of baptismal regeneration, with its attendant doctrines. We shall not enter into the forms adopted in the second case of witnesses—the Roman Catholic Church. The Catholic doctrine defines baptism as “the sacrament of regeneration, because in baptism a man is born again of water and the Holy Spirit.” And in answer to the question, “What is the effect of baptism?” we are told, “all sin, original or actual, however the sinner remission.”\* In this, again, we have the same instantaneous assumption, forgiveness of sins, and a renewed nature. Thirdly, the Church of England declares, in Article XXVII, that “baptism is not only a sign of profession, but also a sign of regeneration or new birth: whereby, as by an instrument, they that receive baptism rightly, are grafted into the Church, the promises of forgiveness of sin, and adoption to be the sons of God by the Holy Ghost, are visibly signed and sealed.”

We need not trouble you with the professions and declarations in the Catechism and Baptismal Service, where this regeneration and adoption are confidently reckoned upon, but may notice, fourthly, the doctrines of the Presbyterians, or Oxford Catholics, on this point—the efficacy of baptism: these are the only persons who explain what is meant in the Article by receiving baptism “rightly,” which refers not to the receiver so much as to the giver, the administrator of the rite, who, according to these Catholic Christians, must be in the line of the apostolical succession, without which both the word and sacraments are invalid, and men’s salvation endangered. We shall give a few quotations from “Christian Morals” by the Rev. W. Sewell, M.A., Professor of Moral Philosophy, in the University of Oxford.

“The sacraments of the church, especially the sacrament of baptism, cannot be separated from ethical education.” “Our real goodness is the Spirit of God communicated to us at baptism.”† “The first thing which great and good men, many ages back, would have done, to *make you like themselves*, would have been this: they would have gone, when you were an infant, to your cradle, and would have bade your mother and father bring you, as a foul, polluted, accursed thing, against which God was wroth, and over which spirits of evil were permitted to have dominion, to a place which they would appoint.”‡ After this, we have a considerable digression, to indicate what parties may now appoint a place, for *making children like themselves*. “Should I be permitted to minister at this altar, if I came and claimed a right to do so of my own will? No; before any one of us could venture to do this, we received a special and most solemn commission from the heads or rulers

\* Dr. Fletcher’s Lectures on Romanism.

† Preface.

‡ Page 5, chap. ii.

of this body or society, of which I need not tell you that the name is the Church. [See the first head of the previous discourse.] THEY delegated to us the power to *which, if you would ever become good*, you must have recourse at our hands.”\* This solemn commission from a vast society, *called* the Church, may be the gift of a lay patron, into which *living*, this lay commissioned minister is inducted by ordination from a bishop, who is created by the prime minister, i. e., the prime *political* minister.

But the powers of *this* church “are very great, they are even awful; if not truly conferred by God, they are blasphemously assumed by man.” This is writing their own condemnation, for we *know* that these powers are *not* conferred by God, and, therefore, the conclusion is very plain. But the boldness of this blasphemy is next adduced, to show that it is no blasphemy at all! “The promise of communicating to man the Divine nature itself, of bringing down the Deity from heaven, and infusing his own Spirit into miserable mortals—this, *which is nothing more than an every day promise of the church*, proclaimed and administered by every minister of the church every time that he stands by the font, or serves at the altar, is it not so awful, so tremendous, that *we scarcely bear to read it written*, except in familiar words which scarcely touch the ear? Should we not expect that such a lie, if lie it be, must long since have drawn down vengeance on the blasphemer?”† But the very plainness of the lie renders it unnecessary for God to interfere further than by his word; many lies have lived longer, and it is not every liar that shares the fate of Ananias and Sapphira; and, therefore, it neither clears your character, nor proves your mission to say, that God has not yet struck the blasphemer with death.

There perhaps never was a book indicating greater mental and moral obliquity than this, half stating a proposition, and then plunging under the waves for two or three chapters, to emerge and finish it, lest the naked monstrosity of arrogance and weakness should be too suddenly apparent. But all this is the native outgrowth of an undue regard to sacraments, as though possessing some mystical efficacy. Here, in this fourth class, we have not the power of truth, not the power of the Spirit, not the power of the sacraments, but the Divine authority of a modest clergy *keeping religion alive by outward acts of spiritual conjuring*. Setting aside this feeble arrogance, there is one feature distinguishing the views of all four classes,—the Primitive Church, the Church of Rome, the Church of England, and the Church of Oxford,—namely an idolatry of sacraments, an unscriptural and exaggerated estimate of their value; especially that of baptism, which is regarded by them all as an *instrument of regeneration*.

\* Page 26, chap. iii.

† Page 27.

...an enastisement : " but since she  
 dust, she will stammer out a reason,  
 anathema ; but the only shape of reason  
 that these blessings are conveyed condi-  
 tioned person must afterwards do his part  
 expect final sanctification. This is a man  
 man were regenerated by baptism, he *would*  
*forth the fruits of the Spirit*, and would find  
 more easy ; if the tree be planted, it would  
 fruits. But there is no difference between  
 baptized in this respect ; they grow up exactly  
 one has put off the old man, is made a new  
 with Christ and risen with him, while the  
 trespasses and sins. And here we have a  
 this doctrine and that of transubstantiation  
 transformation of the wafer is made, it still  
 and is so to our outward senses ; so when men  
 instead of Satan, there is no perceptible change  
 in science and character. The Romish doctrine  
 senses ; the protestant doctrine (which is Roman)  
 to our reason and experience. The wafer  
 when made into the body and blood of Christ  
 its qualities when made a member of Christ  
 and an inheritor of the kingdom of heaven  
*cases, there is* A CHANGE WHICH MAKES NO DIFFERENCE

But not only are these two doctrines the same  
 that as no one can distinguish a consecrated  
 so no one can distinguish

DURING THE OUTWARD RITE, BUT OF SOMETHING THAT WAS DONE BEFORE, OR NEEDS TO BE DONE AFTERWARDS. Nothing whatever is communicated by the rite, nor is anything ever said in Scripture to be communicated by the rite, or in connexion therewith.

But not to confuse your minds by the assertion of too many principles together, we will first endeavour to show, *that there are two baptisms, real in the spirit, and emblematical in the body*; as there was a circumcision in the flesh, done by the hand, and a circumcision of the heart, done by the Spirit. And the baptism of the body represents the baptism of the spirit: but all mistakes on this point arise from mistaking the representative emblem for the reality. See Matt. iii. 11, 12, "I, indeed, baptize with water," etc.

Here, then, are two baptisms; bodily and spiritual; and the apostles were baptized with the Holy Ghost, when it filled the room where they were with fire, when cloven tongues rested on their heads. John performs his rite with water; Christ with the Holy Spirit and with fire; that is, *not with water*: he never did baptize, but his disciples, that is, he never administered the emblem; but he did administer the reality: so now, he does not administer the emblematical baptism, but his disciples; whilst he still baptizes with the Spirit. And in the words just quoted, there are three things in the real baptism,—cleansing, sifting, and consuming what is worthless: this is the reality, all else is a figure; and when done to a convert, is a profession emblematically of what he is spiritually; when done to an infant, is an acknowledgment by the parents of what the *child requires*, as well as a pledge that they will seek to bring the child within the baptism of Christian influence, teaching, and Divine grace. That baptism of adults is such a badge of profession, indicating *what Christ has done* in the soul, and *not a means by which he does it*, is evident, from the account of the day of Pentecost, Acts ii. 37. Here those who were to be baptized, had first been pricked in their hearts by the words of Peter; they were to repent, in order to baptism, and by that act, *were to express, not to acquire belief* in Christ, as giving remission of sins; and as the result of their belief, not of their baptism, they were to receive the Holy Ghost: it is never given in answer to baptism, but in answer to faith. And who were thus received? "*Then THEY THAT GLADLY RECEIVED HIS word, were baptized,*" and this baptism, expressed their reception of Peter's words, and faith in the Lord Jesus.

The apostles did not preach or advocate baptism as a primary duty, but repentance towards God, and faith in Christ; of which, baptism was a sign given by the convert; "but now, God commendeth all men everywhere to repent," (Acts xvii. 30). John

Mark i. 4, "preached the baptism of repentance for the remission of sins:" and *this remission was not appended to baptism, but to repentance.* So the apostles preached the baptism of faith, i. e. *implied* faith, to be expressed by baptism, and to be blessed with forgiveness and renewal. This rite is perfectly indifferent so far as acceptance or regeneration are concerned, but is important as an acknowledgment of Christ, and more especially as a method of symbolical instruction; and here we may examine that favourite text, John iii. 5, "Except a man be born of water and of the Spirit, he cannot enter into the kingdom of God." On which notice, first, that in the 8th verse the same necessity is repeated, but the birth of water is omitted; and, secondly, that whilst the birth of water means outward, the birth of the Spirit means inward, baptism, yet *there is no statement that the one results from the other*,—that men get the birth of the Spirit by the birth of the water, and therefore this is quite beside the mark: it is not here baptismal regeneration, but baptism and regeneration. And the reason why baptism, or birth of water, is mentioned here to Nicodemus, is, because that would be an imitation, the open reception of a proselyte, and so would be an open profession by Nicodemus, who came in the night: and therefore Jesus says, "you must be regenerate, and as we test thereby, acknowledge me before men;" as in another place, "he that denies me before men, him will I deny before my Father." This, therefore, was peculiarly applicable to Nicodemus, just as to the young man our Lord said, *sell all that thou hast*, but he would not say this to every person; so here he laid greater stress on baptism, because this was the test of a man who came by night, as we read in another place, "If thou wilt confess with thy mouth the Lord Jesus, and shalt believe in thine heart that God hath raised him from the dead, thou shalt be saved." Now, here observe, confession with the mouth is put first, so also the baptism of water is put first, but the confession was simply to express the belief, and would be of no use without it; so the birth of water was only to express the birth of the Spirit, and would be of no use without it. "For with the heart man believeth unto righteousness, and with the mouth confession is made unto salvation," (Rom. x. 9, 10.) Now, the confession here is what the birth of water or baptism is in John (iii. 5). But as this confession would be a lie, without the belief preceding, so the baptism of Nicodemus would be a mockery, without the new birth preceding. And hence we may regard the requirement, believe and be baptized, as equal to this, believe in, and acknowledge the Saviour, of which acknowledgment this rite is one method, and peculiarly suited to proselytes; just as the Jews, whilst circumcising infants in

general, would have circumcised an adult convert from heathenism.

In the same sense we are to understand that saying, "He that believeth and is baptized shall be saved," (Mark xvi. 16). The baptism is not indispensable, but is there regarded evidently as confessing the Lord Jesus; and in most other passages we find baptism left out, while belief is set forth as *the* essential condition.

So in this verse, he that believeth and is baptized shall be saved, he that believeth not shall be lost,—that is, *whether he be baptized or not*.

And therefore this being born of water and of the Spirit, *does not place these two things on an equal footing*, for, in the second statement, the water is left out; and the birth of the Spirit is not said to result from the birth of the water, but is evidently suited to the case of Nicodemus, as being a Christian under cover, who must show himself, and make the confession of the mouth, as a proof and expression of the belief of the heart, according to the general analogies we have seen, that repentance and faith go before baptism, which is only a public acknowledgment. \*

And besides that, the birth of water is evidently inferior to that of the Spirit, and not the cause of spirituality; so also these two things often exist apart from one another, as in the case of Peter, and Cornelius the centurion, Acts x. 44—47. Here the birth of the Spirit preceded the birth of the water,

\* It may be questioned, as indeed it is by Dr. Arnold, in his Fragment on "The Church," whether our Lord's words to Nicodemus had any reference at all to the rite of baptism, since they are probably a figurative expression, in words, of what the rite expresses by figurative action. Instead of referring to the rite, they are "co-ordinate" with it, and both refer to the necessity of a spiritual change. Just as in the conversation with the woman of Samaria, (John iv.) we read "Whosoever drinketh of the water that I shall give him, shall never thirst." Emblematical words; which, however, this woman mistook for literal:—"Sir, thou hast nothing to draw with, and the well is deep." So also with the disciples, (Matt. xvi. 6) "Take heed, and beware of the leaven of the Pharisees: And they reasoned among themselves, saying, it is because we have taken no bread."

It is very likely Nicodemus would have made the same kind of mistake, had he also interpreted the Saviour's words in the gross, "literal sense." Indeed, it was the custom of the Redeemer to use these natural emblems for spiritual things. As when we read (John vi. 33), "The bread of God is he which cometh down from heaven, and giveth life to the world." "He that eateth my flesh, and drinketh my blood, dwelleth in me, and I in him." "As I live by the Father, so he that eateth me, even he shall live by me," (lvi. and lvii.)

Here is no reference to the Lord's Supper, but a statement in words, of what that ordinance asserts by action, viz., that we receive strength and life from Christ. And how does Christ "live by the Father?" "I have meat to eat, that ye know not of," (John iv. 32) "My meat is to do the will of Him that sent me," (34.) And wherein can men generally so feed on spiritual food? "It is written, man shall not live by bread alone, but by every word that proceedeth out of the mouth of God," (Matt. iv. 4.) As man's bodily powers are sustained and invigorated by daily food, so Christ is the bread, the staff of our spiritual life—feeding us by *his words*, which are spirit and life.

and Peter's reason for baptising them was *not to confer thereby the Holy Ghost, BUT BECAUSE THEY HAD ALREADY RECEIVED IT.*

We have beforehand noticed the case of Simon the sorcerer, Acts viii. 13. who, though baptized (or born of water), by an apostolically-ordained teacher, was not born of the Spirit. So that, as in the former instance, we have the birth of the Spirit without the birth of water, so here we have the birth of water without that of the Spirit; wherefore these two are not linked together as cause and effect, nor is baptism a sign of God bestowing his Spirit, but a profession that a man believes in Christ, and is regenerated by that spiritual connexion; a sign which may be true or false, according to the man's insight or sincerity. "This he spake of the Spirit, *which they that believe on him should receive*, for the Holy Ghost was not yet given, because that Jesus was not yet glorified," John vii. 39.

Hence this birth of the Spirit here accompanies faith, or is to follow faith, independently of baptism. So also of "adoption," "to as many as received him, to them gave he power to become the sons of God;" and again, "*having purified their hearts by faith.*"

And again, to show how utterly distinct is the gift of the Holy Ghost from the formal rite of baptism, read Acts viii, 15—17. They had been baptized, in the name of the Lord Jesus, but *had not* received the Holy Ghost. In the 19th chapter, we read of Paul baptizing some "in the name of the Lord Jesus;" but as a *separate and distinct thing from baptism*, he laid his hands on them, and they received the Holy Spirit.

Now if all this be true, there must be more certainty and efficacy in the baptisms of the Fathers, the Roman Catholics, the English Church and her Catholic sons, than in the baptisms of the Apostles, or else, the assertions about regeneration and the Holy Ghost, in these baptisms, are utterly unfounded, for no such things belonged to the ritual baptisms of the real apostles. So far we have examined the effects of the outward baptism, or rite, as administered by the apostles, and find no saving efficacy given or pretended to; but we shall see, by the next series of instances, why there has been this efficacy attributed to the rite;—namely, because men have mistaken the reality for the emblem. And here we may remind you again, of the two baptisms recognized in the Gospel; namely, of water, and of the Spirit; done upon the body, and wrought in the soul; but the latter is the real baptism, the bodily one is a mere emblem and profession.

Now many take the real regeneration, as if meaning the outward rite, and performed thereby; but we have seen that no peculiar spiritual effect was connected with the outward washing, not even the gift of the Holy Ghost, and certainly no



pardon nor sanctification. If these were bestowed, they were bestowed on faith, not on the outward ordinance.

Let us then examine the cases of real baptism, in the Spirit and by the Holy Spirit, which have been confounded with the washing of water.

Bishop Burnet, on the 25th Article,—the nature of the sacraments, after the most rational and spiritual statements,—that “the conditions of the New Covenant are repentance, faith, and obedience;” that whatever dispenses with these, corrupts “the vitals of religion;” that sacramental actions have no charm in themselves, but their efficacy depends on the temper of mind in which persons communicate, or are baptised:—that “it is not as an action that baptism washes us.” After such clear and true principles, he is dragged into the mire by the Article to be explained; and in the remarks thereupon, contradicts the principles before laid down. And lest he should have debased the sacraments beneath the high pretensions of the Article, he immediately reminds us, with great solemnity, that St. Peter says baptism saves us; though he had told us beforehand, that this was not the outward rite; and therefore it is beside the case. This passage occurs in 1 Peter, iii. 20, 21. Here baptism is compared to the ark, but the ark saved these eight souls *from* the water; and so does Peter’s baptism here. For of what sort is he speaking? not the putting away the filth of the flesh, but something else, namely, the baptism or putting away the filth of the mind,—the answer of a good conscience towards God. It is by confounding this spiritual baptism with the outward emblem, and as being the result or accompaniment, that persons have given so much efficacy to the bodily washing, or birth of water, though Peter expressly says, that he *does not mean* this, but a process in the mind. “St. Paul,” says Bishop Burnet, “calls baptism the washing of regeneration; to which he joins the renewing of the Holy Ghost.” If you examine Titus iii. 5, you will find that Paul is not speaking of the rite of baptism, but of a change in the Christian’s heart. The washing of regeneration, *not the washing of water*, nor in connection therewith, but a spiritual renovation; and the next words explain these,—“*even the renewing of the Holy Ghost.*” There is no *laver* in the whole process, nor any water; but the first sentence is explained by the second. God has graciously bestowed on us the washing of regeneration, even the renewing influence of his Holy Spirit.

And again, by “one Spirit, we are all baptized into one body;” but we are *not* baptized into this one body *by water*. Men baptize with water, Christ with the Spirit; and here indeed the Spirit is regarded as the administrator of the baptism mentioned; he being sent by Christ, baptizes us, and so makes us *all one*, because spirit and life give unity to a body. Now



*the Holy Spirit does not use water in this process.* And the words, "baptized into the body," may further be explained, as referring to no specific form, but a real introduction and participation: just as the Jews were all "baptized unto Moses, in the cloud and in the sea" (1 Cor. x. 2); not because they passed under the cloud, or went through the sea; not because either cloud or water touched them (they went through dryshod); but simply because that act of starting out with Moses, was the promissory act, and open expression of their devotedness. They were *baptized unto Moses—that is, had committed themselves to his cause*, by this professional, or which is the same thing, baptismal act; taking the open and decisive step, giving a pledge—crossing the Rubicon.

After the conversion of Saul, he is thus addressed by Ananias, Acts xxii. 16: "And now, why tarriest thou? Arise and be baptized, and wash away thy sins, calling upon the name of the Lord."

Here it is very probable, that water baptism is meant, but it does not, in this case even, wash away sins; it may be an emblem thereof. But we read of three things; be baptised, and wash away thy sins,—how, by baptism?—no; but by *calling on the name of the Lord*: it is *this* which makes the outward washing a true emblem of the inward one. We may next notice that passage in Romans vi. 1—4, a passage often quoted, but seldom examined and understood (Read it). First observe, that the phrase, "buried with Christ, by baptism," is often adduced to shew that immersion is the true form; but this arises from stopping before the sentence is finished; we are *not* buried with Christ by baptism (as a mere way of being immersed), but by *baptism into death*. It is the thing into the belief of which we are baptised, not the *manner* of baptism, which typifies death. It is because we acknowledge one who is dead to the world, and so *are baptised into his DEATH*, that we are *thereby* BURIED; and we rise, not out of the water, but into newness of life. Therefore Paul, here, is not speaking of a ritual-water baptism at all, but of a spiritual baptism, by which we "are dead, and our life hid with Christ in God," (Col. iii. 3.)

For the same reason that we suppose a baptism of water done on the body, we might expect in the 6th verse, a bodily *crucifixion*, for "our old man is *crucified* with him;" that is, Christ's natural death is emblematical of our death to the world; and by being baptised into, or professing his name, we become *professedly, likewise dead* unto the world, but alive unto God. It therefore has nothing to do either with the manner or effect of water baptism, but the relation in which we stand by faith and profession. Observe further—this cannot mean a regeneration by baptism, for *Christ died before*

*he was buried*, and so we must be dead to sin, crucified with Christ, before we are buried with him; and therefore our change, in great part, must take place before we are thus baptised.

In Galatians iii. 27, we read, "for as many of you as have been baptised into Christ, have put on Christ; which means again a spiritual baptism, as is evident from the preceding verse, "For ye are all the children of God, by faith in Jesus Christ," and this faith is a part of the spiritual baptism. And again, Ephes. v. 26, 27, "Husbands love your wives, as Christ also loved the church, and gave himself for it, that he might sanctify and cleanse it, by the washing of water, by the Word." Here is in this no reference to formal baptism, but probably, as the connexion is respecting wives, the reference is to the bridal bath, which is a washing, and so is Christ's sanctification of his church "in a word," or figuratively speaking. And if we not only do not admit of this allusion, but take "the word" here, for the word of God, then the washing of water is merely employed here as a symbol of what this word does to the soul, when Christ *sanctifies us by his truth*; so that the reference is rather to the ordinance of preaching than to the rite of baptism. We shall trouble you with but one other passage, (Col. ii. 12,) "Buried with him in baptism, wherein also ye are risen with him, *through faith in the operation* of God, who hath raised him from the dead."

Here it is the faith in a dead Saviour by which we are buried, and faith in a risen Saviour by which we rise, that we may be conformed to his death and resurrection. But that no ritual baptism is intended, is plain, from the preceding verse, "In whom *also ye are circumcised*, with the circumcision made without hands, in putting off the body of the sins of the flesh, by the circumcision of Christ." The sort of baptism, then, is the same as that of circumcision, is the same as our crucifixion with Christ, which is done in the soul, and not on the body, *nor in connexion with any outward performance*.

Here, then, we may sum up the conclusions arrived at. Transubstantiation is the doctrine of changing a wafer, which to our senses remains unchanged. Baptismal regeneration is renewing a soul, which to our reason and experience remains unrenewed: in both cases, a change without any difference. Transubstantiation is founded on mistaking an emblem for a reality, a sign for the thing signified, a figure for a fact. Baptismal regeneration is founded on the same thing; for there are two baptisms: an emblem—by water; a reality—by the Spirit. These two, we have seen, are not connected together, *either in coincidence of time, or as cause and effect*; for MANY

WERE BAPTIZED, WITHOUT BEING RENEWED, and MANY WERE RENEWED, WITHOUT BEING BAPTIZED. And finally, all those cases which are brought forward to prove regeneration by water baptism, refer not to that kind of baptism at all; but to a real renewal by the Word and Spirit of God, of which the outward rite may be a fit emblem, but to which it does not contribute, and with which it is in no way connected, except so far as the professions of men, which may be true or false.

So far, for what they say about this doctrine of baptismal regeneration, and why they say it,—namely, because they misunderstand the Scriptures, which are distorted, to save the credit of priests, Creeds, Articles, and Catechisms.

III. We have now to shew why these statements respecting baptismal regeneration should not be made: Because they are not only *unfounded* in the Scriptures, but *falsified* by the Scriptures. In other words, they should not say what they do on this subject, because there is no scriptural ground for it: because it tends to exalt a clergy, as working spiritual wonders: because it debases the people, by fatally degrading superstition: but chiefly, (with which we have here more particularly to do), because it is contradicted by the whole scope of the Gospel, whose spirituality is destroyed or debased by an exaltation of outward rites.

THE DOCTRINE OF SACRAMENTS, as possessing any efficacy above other methods of worship and obedience:—this doctrine is WHOLLY A GRATUITOUS INVENTION OF MEN; and if not the invention, is the grand buttress, of priestcraft. There is no peculiar grace connected with any sacrament, in the New Testament. The Lord's Supper was NOT instituted as a time *when we receive* Christ, more than at other times of worship; but *when we acknowledge* Him, in all the offices of redemption.

Like baptism, this is a teaching rite on God's part, a professing rite on our part, (whether as parents bringing children, or as adults presenting ourselves). We do not eat the body and blood of Christ in the Lord's Supper particularly; but thereby signify the habit of our lives. And in John vi., where our Saviour speaks so strongly of eating the flesh and drinking the blood of the Son of Man, he concludes (v. 63) by saying, "It is the Spirit that quickeneth: the words that I speak unto you, THEY ARE SPIRIT AND THEY ARE LIFE." He was "our pass-over," and we are to keep the feast, not on formal occasions, but by that "festive joy and peace in believing" which constitutes a *life-sacrament*. He is our bread of life: not a meal once a month, or once a half-year, which is a starving process, but our daily bread—our habitual sustenance. Nor is Christ's presence promised peculiarly at a baptism, or at the Lord's Supper, but, "Lo, I am with you *always*, even unto the end of the world,"

(Matt. xxviii. 20). And especially, "Where two or three are gathered together in my name, there am I in the midst of them," (Matt. xviii. 20). There is, consequently, no reason to consider these rites as *peculiar* means of grace, nor such means at all, except as occasions of profession, contemplation, obedience, and prayer,—the appointed channels of the Divine blessing. Indeed, it is contrary to the whole spirit of the Gospel to give prominence to any definite acts, instead of attending to the spirit in which we serve the Lord. One part of the Saviour's address to Nicodemus is generally overlooked by the advocates of sacraments, though they cling to the literal interpretation of another part. But we must take the whole. Consider, then, this saying: (John iii. 6) "That which is born of the flesh, is flesh; and that which is born of the Spirit, is spirit." Now, the term flesh, as used here, in opposition to spirit, means the corrupt part of our nature—the peculiarly human element, which springs from man's perversion; whilst the spirit means the regenerate element in our character,—the work of Divine grace. As, in another passage, 'the flesh lusteth against the Spirit;' the human, so to speak, against the Divine. But this term flesh, as denoting man's depravity, includes not only direct sinfulness, but formal religion,—*sin, under the cloak of services*; bodily acts of will worship; fleshly ordinances: hence the apostle, in this sense, repudiates these; he rejoices in Christ Jesus, and HAS NO CONFIDENCE IN THE FLESH: that is, in formal observances or outward rites.\* So that baptism, as a formal rite, is like circumcision in the flesh; and, therefore, *whatever is born of this fleshly ordinance, is flesh*. But the true "children of God" "are born not of blood, nor of the will of the flesh:" that is, not at the instance, nor by the contrivance, of man; not at the beck, nor by the conjuring, of a priest; "but of God,"—a distinction or privilege, bestowed not upon the formally baptized, but "upon as many as received him," "even upon them that believed on his name." *These* received "power to become the sons of God," (John i. 12, 13).

Nothing has proved a greater mystery of iniquity, than pretending to make men "members of Christ, and children of God," by other means, such as the IMPOSTURE of baptismal regeneration, which, though "a doctrine of the church," is not a doctrine of the Bible. This unscriptural doctrine is clung to for no other purpose than to exalt a clergy, and maintain the credit of a creed, which is the swaddling band of the church, continuing it in the dwarfishness or childhood of spiritual ignorance. Nothing is more calculated to establish self-righteousness, than these small "tithes of mint, anise, and cummin."

\* Read carefully Philippians iii. 3—11.

But the gospel comes to effect a spiritual change, by spiritual means: it commends truths and awakens convictions; it presents promises and awakens faith, by which CHRIST (and not baptism) is formed in our hearts the hope of glory. It does not advocate the use of forms,—teaching men to glory in the cross, by wearing a crucifix, and mortifying the body; but to crucify our lusts, and die with Christ to the world, in order that with and through Him we may live unto God. It offers forgiveness at the cross, and not at the font; it sanctifies by the Spirit, and not by, nor with water; it demands charity, not in the mere *form* of giving our goods to the poor, but in the *spirit* of loving one another, because God hath so loved us.

These are the great topics on which it dwells; and the Spirit was promised, not to take of the things of the clergy, and shew the efficacy of rites, but to take of the things of Christ, and commend the truth to every man's conscience in the sight of God. We must not hide the Saviour behind a stone cross; nor cast the Great High Priest into the shade, by the towering ambition of a pretended priesthood; nor allow HIM TO BE BURIED IN WATER BAPTISM; but commend Him alone, as "our wisdom and righteousness, and sanctification and redemption." Nor must we so far commit *a sin against the Holy Ghost*, as to suppose that *He is in the hands of the clergy*, to be bestowed on such occasions as they may declare; for this "every-day promise of the church," of "*bringing down the Deity* from heaven, and *infusing his own Spirit* into miserable mortals," is the MOST GRATUITOUS AND UNQUALIFIED INSTANCE OF BLASPHEMY ON record.

And, without boasting, but in earnestness and sincerity, we hereby challenge all bishops, priests, and deacons, to justify the doctrine of baptismal regeneration. And though these may still adhere to it as a "doctrine of the church,"—that is, hold it because they hold it; we appeal to the laity to reject it, because it is false, and to search the Scriptures for themselves; which Scriptures warn every man, and teach every man, to trust to no priestly rites, which are wood, hay, straw, and stubble, to be *consumed* by Him who baptizeth with the Holy Ghost and with *fire*, and who will gather nothing but wheat into his garner.

For, in Christ Jesus, neither circumcision availeth any thing, nor uncircumcision,—neither baptism, nor want of baptism; "but, the being a new creature, moral regeneration, is everything, all in all, the substance of the gospel." \*

\* Rev. S. T. Bloomfield, D.D., Greek Testament with English Notes.

THE  
**CHURCH'S HOLY-DAYS**

THE  
ONLY SAFEGUARD AGAINST

THE  
**Desecration of the Lord's Day.**

BY  
**WILLIAM GRAPEL, B.A.**

**“ Recte Ecclesię festa colunt, qui Ecclesię filios se esse recognoscunt.”**  
*S. Augustin.*

**L O N D O N :**  
**JOSEPH MASTERS, ALDERSGATE STREET,**  
**AND 78, NEW BOND STREET.**

**MDCCCXLVIII.**

“ Well to celebrate these religious and sacred days, is to spend the flower of our time happily. They are the splendour and outward dignity of our religion, forcible witnesses of ancient truth, provocations to the exercise of all piety, shadows of our endless felicity in heaven, on earth everlasting records and memorials ; wherein they who cannot be drawn to hearken to what we teach, may, only by looking upon that we do, in a manner read whatsoever we believe.”—HOOKER, *Eccl. Pol. Book V.*



# The Church's Holy-days

## THE ONLY SAFEGUARD AGAINST THE DESECRATION OF THE LORD'S DAY.

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A STRIPLING once was able with a pebble from his sling to fell the giant who defied the armies of the Most High God ; and more than once have bows bent at a venture driven home their shafts to hearts which heavier bolts had tried to reach in vain. Worldlings may say that chance ruled the stone, and led the arrow in its path, but the Christian man knows better far than that ; he sees indeed the Master's guiding Hand ; but it is that of Him Who rules the whirlwind and commands the storm, and he is well assured that if he also battle in the righteous cause, and cry with Jehu, " Who is on my side ? who ? " he shall be blessed with the like all-mighty guidance, and in the hour of need shall thence have strength enough and followers enough, ay ! though twelve angel-legions left their heavenly seats to shout in thunder-accent *Woe*, in answer to his cry. In this faith then I am minded now to raise my voice, weak though it be, and ask, " Who is on the LORD's side ? who ? " in a matter which most closely affects the honour due unto His Name ; a matter which in its non-observance has gone far to make the thinking part of us fear that as a nation, England is now no more on the LORD's side, but having cast aside His Sacramental yoke, is now but the servant of that arch-fiend Mammon, that glosing sprite whom God Himself has said, cannot *with* God be



worshipped. To Mammon and the world we give six days in every week, and yet we find it hard to give wholly to our God the seventh, would try to work that most impossible of problems, the worshipping of God *and* Mammon, on *that* Holy-day, that day on which our SAVIOUR vanquished death, that day on which so often He appeared to His followers, that day on which from on high He sent the Holy Paraclete as a gift to man, that day too on the which the loved disciple, in a vision wrapt, received, though mortal man, those glorious revelations of heaven's mysteries which close the canon of our holy writ. Oh! may we, one and all, have grace to see through this delusion of the wicked one, to feel the absurdity of trying with our dwarfish span to grasp both heaven and the world, to spurn the arch-deceiver from us, tell him we are none of his, are servants of one only Master, One Whose yoke indeed is easy and His burden light; but Who will of a surety hurl on the rebel's head a curse which naught, save prayers and fastings and humiliation, even to the dust, can ever turn aside; may *we* be wise in time, not only range ourselves as faithful liegemen on our good LORD's side, but strain each sinew in the loving task of riving to a thousand tatters the rebel-flag wherever we may see it flaunting in the air, blasting the very breeze which fans it.

The tide of desecration has now attained so sad a height, and roars so loudly at the doors of each among us, that GOD-fearing, zealous men, cut to the heart, are now again bestirring themselves to see if haply they can hit upon a plan for stemming it. I use the word "again," because the self-same style, the self-same Exeter Hall meetings, vestry spoutings, platform climbings, and the rest, have by the same men with like sincerity been repeated at intervals for the last score years at least; and as it seems, the good which has been wrought is small enough, perhaps at the best one of those illimitably minute quantities which though of use enough in a lemma of Newton or Laplace are not worth much in the practical dilemma on the horns of which we are impaled. Now when a physician has for years and years been working at an ailing man, has worried him with bleedings, purgings, and the rest; and yet it seems that in spite of all his skill, of potions never so bitter, and of pills never so subtly gilded, the wretch is not in better case than when

the doctoring began, nay, rather worse ; and if one knows that by nature the patient's stamina were strong and vigorous, one begins to look on the doctor's skill with some mistrust ; and if after a still longer course of the like treatment, the case does not appear to mend, a not uncholerick observer might haply indulge in a few hard names on the said doctor ; and in spite of the dulcet tones of his own trumpet might even go so far as to call him quack, and bid the sick man throw his physic to the dogs, and seek relief elsewhere. Now in all seriousness, has there not happened in this matter of the LORD's-day desecration something not unlike this ? in spite of private zeal and public agitation, of letters, and addresses, and petitions, of surgeons and doctors, apothecaries and quacks, is it not on every hand confessed that nothing has been done ; nay, rather that the case is somewhat more unfavourable than it was at first ; that our medicines, though often nauseous enough, have only made the patient irritable and testy without being strong enough to get at the root of the disease ? and therefore taking our parallel from real life, would it not be just as well to try another course, to fling out of window the stuff which has done so little good, and as laxatives have failed, try whether tonics and restoratives, perhaps even a magnum of sound old Port, may not be better worth ; whether, as John Bull won't keep the LORD's day decently, when the State, like one of Pharaoh's taskmasters, tries to bully him into it, and without a meed of straw grinds out of him a full tale of bricks on every day besides ; he may not be induced to do so when the Church invites, and like a tender mother frees him, not seldom, from his week-day toils, raises to heaven the eye which the selfish vanities of earth have glazed, bids him leave behind his carking cares and join with her in solemn fast and festival, and shows him that as in heaven she promises, so here on earth she gives her children REST ?

Now is it not a bitter truth, that whensoever one speaks to the poor man on this subject, and bids him on the LORD's day take his part in the solemn service of the LORD's House, whensoever one warns him of the grievous sin of doing his own ways, of finding his own pleasure and of speaking his own words on that Holy-day, he makes reply in words not unlike these ; " Ah ! gladly would I do so, Sir, gladly would go to every service in

that Holy House, gladly would turn away my foot from doing my pleasure on that Holy-day ; but while the spirit, Sir, is willing the flesh is very weak ; for the six long days which have rolled by have I been late and early toiling for a bare subsistence, have all that while been mewed within the narrow limits of my workshop, attic, factory ; have on the brightest day seen but a sickly ray of that fair sun whose mid-day glories you perhaps have revelled in,—have in the clearest hours breathed nothing but an air with smoke, and gas, and oil polluted,—have never had the time to stretch my cramped limbs, and when the Sabbath, day of rest, does come, I feel that if I should refuse myself that exercise which the body needs, and the mind too craves, I soon must sink beneath the yoke, too heavy even now : must with my weekly walk, lose health, and strength of body and of mind, and so no longer able to support myself, sink quickly to the grave, or live but on the hard-wrung charity of others.” How many a wretched being in this great Metropolis might fairly answer thus, how many of those who throng the squalid wildernesses of S. Giles’, Bethnal Green, S. Pancras, Lambeth, and the like ; and should you fancy that the tale is overdrawn, look but an instant on the bending form of him who tells it, and you needs must feel he has not told a tithe of all the woe which lies scorching up his very soul within that labouring breast. Oh ! look but on that furrowed brow, that sunken, lustre-lacking eye, those hollow cheeks, so wan, so deathlike ; those lips from which the coral hue has long since fled for aye, look on the wreck in form of man which stands before you, and think of how goodly was the vessel once which thus has foundered in the search for gold, by Dives to be spent at Mammon’s shrine, *then*, if you can, still bid that wretched Lazarus forego his Sunday’s exercise, his mouthful of that air which you perchance have daily had your fill of, his smoking dish perhaps the only one he eats in comfort in the week ; bid him forego these little luxuries, and not omit some half score positive commands besides ; then what this Lazarus should say, and would say too if civil sufferance did not stay his tongue, would be that you, Sir Dives, like the Pharisees of old, were piling on his shoulders burthens which your fathers could not bear, and which yourself evaded and touched not with your little finger ; he would remind you

too of Him Who when accused of violating the Sabbath, told the carping cavillers that *it* was made for man, not man for *it*; nay, he might even tell you that in these few words is shrined the very essence of our blessed Religion, the essence of a spirit, not of bondage, but of perfect joy, and liberty and pure goodwill towards men.

Nor is it from the lowest class alone, that this sad wail for rest mounts up, and drowns the voice which talks of Lord's-day desecration: no! leave the squalid hives of utter misery and want, and mark the labourer on the quay, the porter in the warehouse, the shopman to his counter, and the clerk chained to his desk, in rooms and offices where the lamp is not unfrequently at mid-day needed, serving but to make the darkness visible; nay, leave the rougher sex, and see in stifling work-room, and bazaar, the maiden, lately brought perhaps in fullest bloom of health, from all the freedom of a country life, to ply the needle and to plan the gauds wherewith to prank the forms of Dives' daintier daughters. Ah! look upon her pallid brow, her eye illumined with unhealthy fire, the hectic spot which plays upon her downy cheek, and tells of consumption's ravages begun; then say if of the train of ills which Mammon-worship has entailed upon our land, the bitterest in a worldly point of view, is not that her children have no *rest*; that for the mass of those who labour for their daily bread rest is, as has been well observed, but the precursor of misery, want, and death. But now suppose the six days' toil is at an end, the Lord's day dawns, the State puts forth her mandate, the master for a day is forced to loose his hold of those whom he employs, and in honour of that blessed day, myriads of souls are freed from bondage; now of these myriads, come and see what is the scanty sum of those who with their sons and with their daughters go to hold a solemn festival unto the Lord, and in His consecrated Temple dedicate to Him each thought, each word, each action; come and see the shoals which on that day crowd the steam-boat, railway-carriage, omnibus; see them flocking to take their pleasure, to walk, perhaps, on Hampstead Heath or Wimbledon, to dance, or ride about on horse or donkey-back as funds allow; hear the loud horse-laugh, the boisterous merriment, perhaps, not unlikely too, the obscene jest, the fearful blasphemy; then mark besides

the crowds which glean a livelihood by catering to such pleasures; the proprietors of taverns and tea-gardens, the petty venders opening their shops, or hawking up and down their goods, reaping, as themselves confess, a harvest richer than in all the week besides; see all these cursed results of the miserable system of driving and hurrying after gold, which has been going on before for six long days: and when your heart is torn within you, calmly think if all the burthen of this grievous sin can be, in fairness, laid before the door of those who thus are urged and goaded to commit it. Seems it unjust that great part of the penalty should fall upon the men who in the six days have worked these wretches to the uttermost, on the renegades who having fallen down themselves before the golden god, have sacrificed their servants at his shrine, have sunk them into mere machines, and studied only for the smallest pay to get the greatest possible amount of work? oh! never let such masters think that they are guiltless of this great offence; if themselves serve God, they should see to it that their households and dependents do the like, and that they may do so should mete to them the measure which themselves would wish to have, not paying them in money but to take it back in blood; thus laying on their souls, a reeking blot which all great Neptune's ocean never can wash out, nor all the perfumes of Arabia sweeten. What though such master be the first to use hard words of those who keep away from Church, or Chapel, or Conventicle, and he himself with wife and olive branches always in his pew betimes: what though he join in Anti-Sunday-trading-leagues, and spout or even give his guinea to support them; what though the scent of smoking pudding or hot-pot be nauseous to his saintly nostrils, and though he wage fierce war with tiny muffin boys or burly orange venders; yet let him not from this heap comfort to his soul, his sin is thereby rendered not a whit the lighter, nay, rather blacker in its hue. Oh! bitterest of sympathies, oh! cruellest of cares, those which such a Pharisee pretends in such a cause, equal in mockery to that of him who gives the starving Lazarus a stone instead of bread, a tract in lieu of pudding.

Now, be it borne in mind, that matters were not always thus: time was when England—truly “Merry” then—gave rest to

poor as well as rich ; when her children found time to sit still, and were not ever like the Evil One, “ going to and fro in the earth, and walking up and down in it ;” \* when the maypole was yet standing, and the dance or merry game upon the green still known ; when the Church’s Holy-days were kept in every nook and corner of the land ; when servants had kind treatment at their masters’ hands, and paid it back in faithfulness and love ; when masters grumbled not at giving up a few days’ work, as well because they gave them at the Church’s bidding, to the LORD their God, and had the faith to feel assured that what they gave to Him, He would return tenfold, as that they had that common sense which our enlightened generation seems to lack, and saw that the system of “ all work and no play ” was the shallowest in the world, and could not fail to dull the lustre of the brightest Jack. And if the case be not so now, it is because men have left the guidance of their appointed Mother, and have taken to themselves blind teachers who have “ caused them to stumble in their ways from the ancient paths, to walk in paths, in a way not cast up,” † because they are content to rely upon their private judgment, and will no longer “ ask for the old paths, where is the good way, and walk therein,” ‡ and so find rest for body and for soul. The Church is still, as ever she has been, the poor man’s truest friend ; her Calendar is still the same as when the Fathers of the Reformation left it ; her festivals and fasts are all unaltered : on nearly forty days in every year she bids the worldly Pharaohs let Her children go, and warns that whatever worldly avarice may say, “ their strength is to sit still.” And, oh ! how lovely is the coronal of glorious festivals wherewith she decks the brow of each revolving year ; how delicately sweet their odour to the way-worn pilgrim in the sandy wilderness, more grateful, more reviving far, than are to the mariner

“ Sabeian odours from the spicy shore  
Of Araby the Blest !”

For while those only tell of earthly havens near at hand, these blow direct from Paradise, and give foretaste of Rest in Heaven. .

\* Job i. 7.

† Jeremiah xviii. 15.

‡ Jeremiah vi. 16.

Oh, how they serve to wean our thoughts from earth, and fix them with Him and His redeemed in Heaven. Hear what that venerable Father of our Church, the learned and judicious Hooker, has written on the matter ; and though the extract be somewhat long, still its soaring piety and gorgeous brilliancy of diction will well excuse its introduction here. He says :\*—"The times which we celebrate have relation all to one head. We begin, therefore, our ecclesiastical year with the glorious Annunciation of His Birth by angelical embassy. There being hereunto added, His blessed Nativity itself ; the mystery of His legal Circumcision ; the testification of His true Incarnation by the Purification of her who brought Him into the world ; His Resurrection ; His Ascension into heaven ; the admirable sending down of His SPIRIT upon His chosen, and which consequently ensued, the notice of that incomprehensible TRINITY thereby given to the Church of God. Again, forasmuch as we know that CHRIST hath not only been manifested great in Himself, but great in other His Saints also, the days of whose departure out of the world are, to the Church of CHRIST, as the birth and coronation days of kings or emperors ; therefore especial choice being made of the very flower of all occasions in this kind, there are annual selected times to meditate of CHRIST glorified in them who had the honour to suffer for His sake before they had age and ability to know Him, glorified in them who knowing Him, as Stephen, had the sight of that before death, whereunto so acceptable death did lead ; glorified in those sages of the East, that came from far to adore Him, and were conducted by strange light ; glorified in the second Elias of the world, sent before Him to prepare His way ; glorified in those Apostles whom it pleased Him to use as founders of His kingdom here ; glorified in the Angels as in Michael ; glorified in all those happy souls that are already in possession of Heaven." Oh, sons and daughters of England, why will not you too now take rest unto your souls ? why will not you too, on these Holy-days, see with the eye of faith, Him glorified in these His noble acts of love, glorified in these His companies of Saints and Martyrs, and humbly meditate thereon ? why will you lend your ear so readily to the ac-

\* Ecclesiastical Polity, Book v.



cursed chink of gold, and close it to the lute-like accents of your Mother pleading piteously? why, of the thirty-six high festivals she bids you hold, will you, though dying as you say for want of rest, observe no more than two,—and they the first pearl and the last of all her noble coronal—the alpha and omega, Birth and Death-day of the Holy One, passing unheeded by as jewels of small price, those glorious mysteries, and deeds of obedience, mercy, love, which lie between those limits? Oh, pilgrim sojourners on earth! ye whom the selfish lust for gold doth treat so rudely, learn in your miseries to know who is your truest friend; learn, when your heart is dead within you, and the big tears dim your eyes, to turn with loving trustfulness to her who being in the world is yet above the world, who loves you better than the mother does the infant at her breast, because you are the children of Him Whose Bride she is; who is ever watching to assist you, ever ready round your throbbing temples to bind “wreaths that endure affliction’s heaviest shower;” who, unlike the world, counteth not high things, but condescends to men of low estate,—

“ Walks, like her MASTER, with the poor,  
And lifts the latch; by some lone hearth  
She finds a soul of such vast worth,  
That mightiest armies in their stir  
She heeds not, and they heed not her,  
While by that ivy-mantled door,  
Conversing with a soul, her eye  
Traverses through eternity.”\*

The LORD’s day, then, can never, as it seems, be properly observed and saved from desecration, unless the labouring classes (in all their degrees) have, at other times, their stated days of exercise and recreation. Mammon refuses, Mother Church accords such days, and since, from the lack of them, we are in so sad a plight, and are driven to commit such grievous sins, seems it not little less than madness not to close with her most gracious offer, and try whether by serving Mammon a good deal less, and God a great deal more, that may not be a blessing which is now so sad a curse, whether in all respects, as well tem-

\* The Baptistry, by the Rev. Isaac Williams: part iv. p. 138.



poral as spiritual, we shall not gain a hundredfold, and England be again, what once she was before, a truly "merry" land.

Let the Church's Holy-days again be given to the poor: theirs they are by right, and to withhold them is a sacrilegious sin. Let masters learn with joy to give up to the LORD this portion of their servants' toil, knowing that He Who saved from loss and injury the Israelites of old, when, in obedience to His will, they gave up, not for days or weeks, but even years, the profits of their lands, will likewise cast His shadowing wings round them, if only they have faith. Let every church throughout the land, on those glad days at least (ah! why not every day?\*) throw open wide her doors, and let employers see well to it, that their servants in the mornings go to pay their vows in the midst of the great congregation, and take part in the glorious services appointed for the day. Let the afternoons be given up to cheerfulness and recreation; let there be free access to gardens, parks, museums, art-collections, and the like; restore where possible the village-green; let the richer and more influential classes give their money and advice towards the promotion of athletic sports and games, as cricket, rowing, wrestling, football, to be engaged in on those days, nay, let them join in them heartily themselves, and so do the double good of showing the poor that they are not too proud to hold fellowship with them, and of acting as a wholesome check on the exuberance of spirits, and the indulgence of any intemperance which, especially on their first emancipation from long years of unremitted servitude, they might be tempted to give way to. This is the only way of making the people keep the Sunday as they should do, the only way of waking into life the kindly sympathies which, though now in deathlike trance, once banded rich and poor in one blest fellowship,—the only way of giving a fresh, healthy tone to the Constitution, physical as well as moral, of the people, of reviving the brave, sinewy family of British yeomen, now become so rare, and dwindling rapidly into the puny, sallow, sickly race of artizans, and by giving to

\* "If it (the Daily Service) be a blessing, why should any be defrauded of it; and they too, for the most part, such as stand in most need of it? Why should Simeon and Anna be thrust back from the Gate that is 'called Beautiful' because others see 'no comeliness' in it 'that they should desire it!' "—Archdeacon Manning's Sermons, i. 196.

all a certain degree of freedom, is the only sound, because the only Scriptural way of spreading habits of temperance, and of checking, as King James says in his Declaration,† “filthy tipplings and drunkenness, and idle, discontented speeches in the alehouses.” Pains and penalties, in such a case, are worse than useless, they only irritate and feed the flame, and unless employers show their people that they sympathise heartily with them, and will do all that in them lies to enable them to keep the LORD’s day holy, by giving reasonable time for exercise and recreation on other stated days, all your Acts of Parliament, be they never so stringent, will be passed but to be evaded. Give the poor first of all a greater share of personal notice and attention; show them that sympathy which they need more than money; give back to them the Holy-days of their Church, and rest assured that matters will soon right themselves. Or, should they *then* be needful, have recourse at last to penal laws; till then they would be nothing but a mockery, about as potent as those green withe bands wherewith his foemen thought to capture Samson.

But some, perhaps, who would be well inclined towards such a search after the old paths, may fear that, however feasible in theory, such a course would in practice be impossible. Let us therefore calmly consider the difficulties which may be raised, and weigh them at their real worth. Now, it cannot be denied that, whatever may be the case with individuals, it would in the present state of things be hopeless to look for any immediate public stir in the matter; and the man who is sanguine enough to do so, had better light his pipe, and fold his hands, and sit in patient expectation of the Greek Kalends, till when his chance of being gratified in the troubling of the waters is but miserably small. All State machines are necessarily somewhat cumbrous, the “*stridentia plaustra*” are hard enough to move, and when fairly set a-going are mostly distanced by the private cabs; still when we see wherein the path of duty clearly lies, it behoves us to put our shoulders to the public wheel, and see what can be done towards lifting the State carriage over the obstacles which

\* “Concerning lawful sports to be used,” promulgated in 1618, re-enforced by Charles I., and re-published 1633.

stay its progress ; and though perhaps unable to do much with it, should yet, at any rate, not fail to see that our own domestic buggy, chaise or cart, be driven carefully along the road. Whatever excuses may be made for the dilatoriness of public bodies, it is certain that individual persons can have none for hesitating about the due performance of the laws of Him, by Whom they will individually be judged ; and when, as in this case, there can be no doubt or question but that by the neglect of certain rules of conduct, a vast amount of sin is incurred, it rests with each individual member of the community to retrace his steps, and fearlessly begin to observe that course which he feels to be in accordance with God's most holy will. And though the Christian can never doubt the successful issue of that practice which is based upon such motives, still such consideration should never be allowed to have a moment's weight. Whatever the result, he must still walk boldly onward in the path of duty, and though that path be strait, and drear, and food be scarce, and money there be none, while the tempting meads on either side are cool, and green, and filled with luxuries and treasures richer than those which lined the chambers of the Lydian king, still must he keep implicitly to the road laid for him, must cling to the bitter and reject the sweet, and, turning neither to the right hand nor to the left, go on relying only on the faithfulness of Him Who hath promised bliss eternal to those who humbly do His bidding. This high consideration surely ought to be sufficient to over-ride the difficulties which might be raised by those who grudged the hours thus snatched from their life of gain ; and in a better age—an age when men walked more by faith and less by sight,—such would have been enough ; but now, alas ! it will not with our long-eared sons of Midas go for much. No ; they first must have it black on white, that there shall be no little present gain, or, at the worst, no chance even of a fraction's loss, and then perhaps, if it jump with their inclinations, they may consent to walk in duty's path. Profitableness, indeed, or unprofitableness of duty ! Alas ! to borrow the nervous words of Archdeacon Manning,\* “in what company of the merchants of Midian were they so nurtured as to be unconscious of the bartering, selfish, unhallowed temper which breathes through

\* “Sermons,” vol. i. p. 196.

such a word ? is it not fearfully like to his words, who asked, ‘ Doth Job serve God for nought ? ’ ” But, to leave an argument, which may at best be useless, let us see if from Cocker’s Arithmetic, that Bible of the Mammon-Gospel, we cannot cull something which, with such listeners, may have greater weight : turn we first to that mill-owner, who so steadily refuses on these days to free his wearied workers from their toils, and ask him if, as he will not give such rest, it is not “ will-he, nill-he,” taken by his slaves ; ask him if bitter experience has not taught him the meaning of that Spinning Shibboleth, *strike* and *turn-out* ; and ask if his wheels are never idle while the hands that ought to turn them are raised at Chartist meetings, monster demonstrations, and the like. Go next to that pursy trader who shuts his ear to every other argument, and laughs at the notion of giving up a good day’s work, simply because the Church demands it. Ask him if, in sooth, his men have not got a calendar containing one Saint at the least, a somewhat base-born Saint indeed, but still one whose red-letter days, and they more by some dozen than those of the Church, are most rigorously observed. Ask if Saint Monday be not still in existence, and things are now in better case than they were in 1812, when Southey talks of there being “ many places where one of the working days of the week is regularly set apart for drunkenness, like a Sabbath of irreligion.”\*

It were a thankless office to enlarge upon these matters ; they are sad enough, but still not to be contradicted. The labouring classes, robbed by the world of that rest which soul as well as body thirsts for, and which alone the Church accords, are chained like galley-slaves to the oar ; are brought to sell themselves like pack-horses to the highest bidder ; and after all this bartering and harrying, what is the result ? Is it other than what the most pudding-headed dreamer must have come at in his reveries, that they (the labouring classes) not only use amiss that day of sacred rest, which the laws, as well of God as man, allow them ; but steal besides what honestly they could not come by, and in a jaundiced abstinence from healthy toil, make up for long neglected holy-days ; just as among the Jews of old, whole ages of forgotten Sabbaths were heaped in the long

\* Southey’s Essays, i., p. 117.

barren fallow of a Babylonian captivity. These are no mere imaginations; they savour not of Utopia, but of that plain Fact-dom, wherein folks now-a-days see such attraction; and that they do so, there is not a mill-owner or employer in the land who cannot vouch, haply the more readily in that his purse has thereby felt some loss. Oh! why then should not masters be wise in time? why not rid themselves of all this grievance and annoyance, and with a good grace accord those hours of recreation, which in any case, at one time or another, they will surely be obliged to give? Might there not be in this a chance, at any rate, of lulling that storm of discontent and revolution which even now is growling somewhat ominously? and if there be a chance, and that too in accordance with the Church's bidding, why not heartily embrace it, and that at once before the hurricane has gained too fierce a head? Let employers of every class,—merchants, factors, tradesfolk great and small,—know this, that nowise can they better study their own private interests, than by studying those of their servants. Let masters give to those in their employ a greater share of sympathy and comfort, and let them add thereto that rest which the Church demands as the least which is essential to the health as well of soul as body, and they will most surely find their own reward; they will see not only that strikes are unthought of and monster meetings unfrequented, but that their work, when done, will be better done, and that their men will show an earnestness and wish to please, which will increase in direct ratio with the master's goodness, and will soon, in practice by the cash-book and the ledger, show the mole-like blindness of the man who keeps bellowing for a fair day's work in return for his fair day's pay, and who like Carlyle's gold-fed mill-owner, exclaims, "My starving workers—did not I hire them fairly in the market? Did I not pay them to the last sixpence the sum covenanted for? What have I to do with them more?"\*

In the opposition, however, of the Dissenters, many people fancy that they can see an insuperable obstacle in the very outset of any attempt to revive the observance of the Church's Holy-days; but surely such difficulty must be rather imaginary than real, even as regards their general observance, and can, of

\* "Past and Present," p. 198.

course, have no conceivable power to check the practice of the individual Churchman, or to make him swerve from the course which he feels to be the right one; the course which he should the more ardently pursue, for this reason if for no higher one, that thereby he may bring home to the humblest hovel in the land, the warming sympathies of that Church which bands all classes in one holy brotherhood, and force men to contrast her genial, pure, unselfish principles and practice, with the chilling arrogance and grasping tendencies of all the various religionisms of the day. As regards the general observance, it seems still hard to see any valid objection which can be started by the Dissenting bodies, at least by the frank and candid members of them; for of course in every such argument we must put aside at once all those blind and spiteful oppositionists who make a point of bristling up and showing front against all and every proposition which affects the increase of the dignity or influence of the Church: with such as these disputation is worse than useless, and in any case one can only say,—

“Non tali auxilio, nec defensoribus istis  
Tempus eget.”

The honest and sincere Dissenter, however, could have no difficulty in agreeing with the Churchman as to the wisdom of giving the labouring classes on the week-days, that exercise and recreation which they require and are otherwise sure to take on the LORD'S day. He would agree with him as to the necessity of having fixedly recurring days, as the seasons for such exercise and recreation, inasmuch as in such a matter, common sense would tell him that method was all-essential, and that that which was not done upon a well-defined plan would soon be left (as now it is) undone altogether. He might perhaps too call to mind the precedent of the Puritans who, with all their sins, were wise enough in their generation, and who, when in their godly zeal they suppressed the Holy-days of the Church, decreed that every second Tuesday in every month should be observed as a day of public festivity, and that “all windows of shops, warehouses, and other places where wares and commodities are usually sold, shall be kept shut on the said day of recreation, from eight of the clock in the morning until eight of the clock at evening on the said day,” with a provision for the interference

of the next justice of the peace in the event of any difference arising between "any master and servant concerning the liberty thus granted."\*

Now having gone so far in company, having acknowledged the necessity of stated days of rest, surely the Dissenter could have little difficulty in bringing his conscience to consent, that such should be so fixed as to coincide with the Holy-days of the Church. Surely if he can make merry with all his little Ichabods and Ebenezers round him on the Feast of the Nativity, he can have no insurmountable scruple about giving his servants a rest-day on that of the Conception. If conscience do not prick him when he pockets his rents on the Festival of S. Michael, how can it wound him very sorely if he forego somewhat of his gains by shutting up his shop on that of S. Paul, or of S. Andrew, or of all and every other Saint whose name adorns the Calendar? At this point their paths of course would separate; and, the days being duly fixed, the method of their observance would depend upon the conscience of each: the Churchman would view the day as holy, the Dissenter might see in it nothing but a needful withdrawal from physical and mental toil; the one would spend his morning in the church, and in that hallowed building pour forth his prayers and thanksgivings for the privilege accorded him; the other might, if he so pleased, listen to a sermon at Salem or Bethesda; but still in either case the poor would be the gainers, they would have a respite from their thralldom, would have some forty days in every year on which their bodies might have exercise and their souls have elbow-room; and if they did not then keep the LORD'S day holy, they would at least have one excuse the less: we should have done our duty, and have knocked away one barrier at least which now stands blocking up the way.

The objection which rests on the alleged intemperance of the labouring classes, and on their consequent inability to conduct themselves with decency if Holy-days were given them, is, even supposing it to be true in the very largest sense, but another reason why we should at once retrace our steps, and follow out the course which the Church in her wisdom has laid down for

\* Ordinances of Puritan Parliament; 8th of June, 1647, and 28th of June, 1647. See Appendix.



us. The worker, after months of unremitted toil, is loosed on a sudden, on occasion of some public festival, a royal birthday, or the like, no word of caution is dreamt of, and he hurries off to bury himself in the tap-room or the gin shop; do you wonder that he does so? You meet a starveling in the street, he craves your charity, and without a word of advice, you fill his pockets with gold pieces, you will surely not be much surprised if he squander them in idleness and vice; nay, common sense must say that such will be the only likely upshot of your folly: and if in this case, why not in the other? surely the end was as clearly to be foreseen in that as this; and in both be sure, an equal share of guilt will rest on the shoulders of the man who grants the boon, but quite omits that prudent practice and those cautioning words which can alone prevent its being turned into a curse. Now if, in the latter case, you had taken the beggar, inquired into his necessities, endeavoured to draw his mind to higher things, given him a just idea of the value of money, and then handed him from time to time such sums as he actually stood in need of, there would at any rate have been a reasonable ground of hope that good might come of your labours, nay that, under God, you might have been the blessed instrument of grace and safety to that beggar's soul as well as body; and why, in the other case, should not the like system have a like success? Give the artisan, at certain intervals, his days of rest and recreation, try to educate his mind, and establish in him those sound religious principles which shall teach him how to spend such days aright, root out his withering, soul-searing lusts, and plant nobler tastes and longings in their room, then be sure it will succeed; it *will* do so because it is the course which conscience sanctions, because it is that which the Church ordains, and because it is therefore sure to have the aid and blessing of that Blessed One, through Whom strengthening us, we have the assurance of an Apostle that we can "do all things."\* To say that because a man mispends a day of rest, he therefore never should be given one, is as absurd as if one argued that because the infidel scoffs at religion, therefore it should never be preached to him; as

\* Philippians iv. 13.



... without abusing it; as  
we are reaping the whirlwind, it is surely of  
sown the wind; we have told the people that  
save the absence of external influence, rest  
a term of toil; we have dared to set our  
opposition to the Church's voice, and therefore  
if we had lent an ear to her, we should have  
taught our poor that true freedom consists b  
rest but in endless acts of praise and ador  
Jerusalem which is above is free,† her glitterin  
with veiled heads, still chant without a n  
praises of Him Who sitteth on the throne, a  
we should have shown them that man can n  
Lord, that if he be not the servant of God,  
but be the slave of Satan, and that only "where  
LORD is, there is liberty." ‡

It were useless to waste further time and s  
up obstacles, but for the pleasure of overset  
grand difficulties which hamper the inclination  
men have been removed, and though others do  
they are such, and such only, as must ever  
any movement which, though in semblance  
counter to man's selfish lust for present gain.  
bears which man

the way, a lion is in the street," \* and while *they* are dallying thus, will gird on sword and buckler, and go to rend that lion, sure that he must come off the conqueror, and that the grimmer the foe, the sweeter the honey which, like Samson, he shall gather in handfuls from its carcass. Still we should make all reasonable allowances even for these minor difficulties, and should endeavour rather by our own example to show people that it is not so hard to act aright in this matter as they would fain imagine; we should endeavour so to bring the question home to the mind of every employer in the community, that he should be unable to shrink from its consideration, and when he has once thought of it, should pray and entreat him, as he values his own eternal welfare, never to let it leave his brain, until he has fairly found for his conscience an answer to the question, "Shall I, or shall I not, keep the Church's Holy-days?"

Let manufacturers, merchants, traders, all who have human beings in their employ, be exhorted to give this matter a full and fair consideration; to think of it as a religious, and therefore as an individual matter; one for the neglect, or the observance, of which they personally will be held responsible; let them calmly weigh the arguments on either side, let them think whether they can, for the sake of CHRIST and CHRIST'S poor, consent to forego some little of the luxury in which they have hitherto been lapped; whether they will consent to curtail in some degree, the circle of their own, now palling, pleasures, will forego a little segment, the loss of which themselves can never feel, and which shall glad the harrowed breasts of thousands of their wearied brethren; whether from their glittering heaps they can spare some pieces, in order that when the rich rejoice, the poor may do the like, and so be seen again that ideal of the Christian course on earth, when each one views his neighbour only as a member of the LORD, and so can never feast when others fast, but needs must joy with them that joy, must weep with them that weep; and so though one member, and that the very lowliest, suffer, "all the members suffer with it, or one member be honoured, all the members rejoice with it." † Let each, then, probe his own heart, and when con-

\* Proverbs xxvi. 13.

† 1 Corinthians xii. 26.

you drop a pebble into the Atlantic, the shores of an Old World and a the practice of a living soul? Will that not a twig fell from the balance of equilibrium of the universe; and a got spirit be less powerful than his brother's keeper; and plead as off the responsibility. Let each, to the best of his ability, and he labour shall not be in vain, but the weak, and little thought of by the every side, he shall in no wise lose mighty bow before him, and have att on his chariot wheels; the world, eve knows an honest man, and cannot choc she sees him. Oh! then, let none be as these; let all feel their own impr aright the worth of their lightest master and every mistress among us to who shall enter first on that bless our father-land a happy land; let ea duty, and leave the rest to Him wh swat.

tion of the day ; mistresses might allow their domestics to have their "outs" on such days ; and the charitable might then give to their pensioners a double measure of their bounty. In each and every case the receivers of these benefits should be clearly given to understand that for this, as for many another blessing, they had to thank the Church, which had raised her voice in their behalf, and gained the victory over self, and lust, and sin.

We are on the brink of dangers ; changes of which not the wisest among us can pretend to argue the upshot have fallen on nations wealthier and prouder than ourselves : God in His all-wise providence has at present kept the tempest from our coasts, but whether it may burst upon us too, and that too at a time when least we look for it, is a question the solution of which lies buried in the mist-clouds of the future ; of one thing only can we be sure, and that is, that our safest course is to do all that in us lies to check that feverish lust for change, and that hurrying to and fro after knowledge, falsely so called, which has fixed its hellish brand upon this present age. Change there must be, and that ere long ; change either onwards, and madly onwards still in tracks and over heights as yet undreamed of ; or else, and God grant that it may be so, a change backwards to those old paths, where is the good way ; a change back to those sterling facts and principles, to those healthy influences which once pervaded high and low, which made England as well a mighty as a merry land, and not only reared the may-pole and threw open the village green, but brought fettered nations to pour their incense at the footstool of her throne.\*

The surest way of allaying the discontents of the poor, the first grand step in the direction of the old paths, is to give again these days of recreation ; to let the labouring classes make merry on the days which the Church has given for that purpose.

- \* " O England, England ! wherefore so forswear  
The healthy powers that with resistless shock  
Bade fettered nations all their incense bear  
To thy few leagues of billow-beaten rock,  
And crowned thee Empress on this ocean brow,  
Where lulled by foreign winds thou sleepest now ?"

Faber, Poems, p. 379.

Our poor are overworked, they cry aloud for Rest ; and not for simple Rest alone, but for recreation, and innocent amusement, for healthful sports which shall keep them from the gin-shop ; why then, oh ! why can we hesitate one moment about according that which ourselves confess they die for lack of ? if we be Churchmen, and ever read our rubric, can we reconcile our consciences to the system of robbery (to use the proper term) which for years we have, in order to gild our pockets and be honourably entered in the ledger of Mammon, practised on our humbler brethren ? Oh ! let us then, at once, do that which should have been our rule of practice for years gone by, let us show the poor that we love them, that we view them sacramentally, as members with ourselves of one body, that we hate those who would oppress them, love those who love ; let us do all this, let us work with heart and soul in the righteous cause, and we soon shall see that, in spite of factious babblers, England is sound at core ; that her children are still ready to lay down their lives for their Queen, and to march to the stake in defence of their Church ; we shall see that they will then keep the LORD'S day better than they would if harassed by laws the most stringent, penalties the most severe ; and will thus so pass their Sabbaths here, that at the last, when time and space shall be no more, they may with eyes uncovered, see those Sabbaths ever young, of which our Tennyson so nobly sings,

“ The Sabbaths of Eternity,  
One Sabbath deep and wide—  
A light upon the shining sea,  
The Bridegroom with His Bride.”

## A P P E N D I X.

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### I.

#### THE CHURCH'S RULE FOR THE OBSERVANCE OF HER HOLY-DAYS.

The Curate shall then declare to the people what Holy-days or fasting days are in the week following to be observed.

Rubric after the Nicene Creed.

Every Parson, Vicar, or Curate shall, in his several charge, declare to the people every Sunday, at the time appointed in the Communion Book, whether there be any Holy-days or fasting days, the week following: and if any hereafter wittingly offend herein, and being once admonished thereof by his ordinary, shall again omit that duty, let him be censured according to law, until he submit himself to the due performance of it.

Canon 64. Of the duty of the Clergy with reference to such days.

All manner of persons within the Church of England shall from henceforth celebrate and keep the LORD'S day, commonly called Sunday, and other Holy-days, according to GOD'S will and pleasure, and the orders of the Church of England prescribed in that behalf; that is to say, &c., &c.

Canon 13. Of the duty of the Laity with reference to such days.

The Common Prayer shall be said or sung distinctly and reverently upon such days as are appointed to be kept holy by the Book of Common Prayer, and their eves.

Canon 14. Of the celebration of the Holy-days.

Abolishing  
the Church's  
Festivals.

Time allot-  
ted for  
recreation.

All disputes  
to be settled  
by the next  
Session of

Forasmuch as the Feasts of the Nativ  
Whitsuntide, and other Festivals, comm  
been heretofore superstitiously used and o  
by the Lords and Commons in Parliamen  
Feast of the Nativity of CHRIST, Easter,  
other Festival days, commonly called Ho  
served as Festivals or Holy-days within thi  
dominion of Wales, any Law, Statute, (C  
Canon to the contrary, in anywise notwith  
end that there may be a convenient tim  
apprentices and other servants, for their recre  
that all scholars, apprentices and other se  
leave and approbation of their masters res  
obtained, have such convenient reasonable  
from the constant and ordinary labours, on e  
the month throughout the year, as formerl  
such aforesaid Festivals, commonly called  
masters of all scholars, apprentices, and ser  
them respectively such time for their recre  
second Tuesdays in every month, as they  
from their extraordinary and necessary servi  
it is further ordained, that, if any difference  
master and servant concern

allotted to scholars, apprentices and other servants, for recreation and relaxation from their ordinary labours, as formerly they have used to have on Festivals commonly called Holy-days, as by the said Ordinance more at large appeareth. And lest such days of recreation might be abused, to the dishonour of God, scandal to religion, and detriment both of masters and servants; and for the more orderly proceeding in the strict observation of the said day of recreation, according to the true intent and meaning of the said Ordinance: It is further ordained by the said Lords and Commons, that all windows of shops, warehouses, and other places where wares and commodities are usually sold, shall be kept shut on the said day of recreation, from eight of the clock in the morning, until eight of the clock at evening, on the said day. And that no master shall wilfully detain or withhold his apprentice or other servant within doors, or from his recreation, in his usual duty or service on the said day of recreation, unless market-days, fair-days, or other extraordinary occasion; yet so as such master shall allow unto such apprentice or other servant, one other day instead of such day employed in the service of his master, upon such occasion as aforesaid. And be it likewise provided and ordained, that if such apprentice or other servant shall riotously spend or abuse such day of recreation, either to his own hurt or the damage of his master, and being thereof lawfully convicted and found guilty before any one Justice of the Peace, it shall and may be lawful for such master at his pleasure, to detain and withhold such apprentice or other servant from their recreation on such allowed days. And be it also provided and ordained, that if such apprentice or other servant shall cause any riotous or tumultuous assembly, to the disturbance of the peace, on such day of recreation, such apprentice or other servant, being thereof lawfully convicted and found guilty, upon the testimony of two witnesses upon oath, before one Justice of the Peace in any county, city, or town corporate, where such offence shall be committed, or before the Chamberlain of the City of London, for the time being, within the said City, who shall have power to administer such oath,—such Justices of the Peace, and the said Chamberlain of the City of London respectively, shall and may at their discretion inflict on such apprentice or other servant so convicted as aforesaid, any corporal punishment, by imprisonment or otherwise, so as the same imprisonment exceed not the space of three days. And lastly, it is ordained that all mayors, sheriffs, bailiffs, constables, headboroughs, and all other officers and ministers are hereby authorized to make, or cause to be made, diligent searches for such apprentices or other servants,

Windows to be shut on days of recreation.

Masters not to detain their servants on such days.

Of the abuse of such day

Of tumultuous assemblies and the punishment of such as shall on such days cause them

Search to be made for such.



It is further provided that any person who shall be found in any such place after eight of the clock of either morning or evening, or shall there remain after eight of the clock in the evening on such day of execution, shall be liable to be apprehended and removed by any Justice of the Peace in any county, city, or town corporate, or within the said Jurisdiction of London, within their respective limits, as aforesaid, who shall cause the same to be carried down until they are in such cases provided for the punishment of such offenders.

**LETTER**

**TO**

**THE DUKE OF ARGYLL,**

**IN REFERENCE TO**

**CERTAIN PASSAGES IN HIS RECENTLY PUBLISHED  
WORK, ENTITLED,**

**“PRESBYTERY EXAMINED.”**

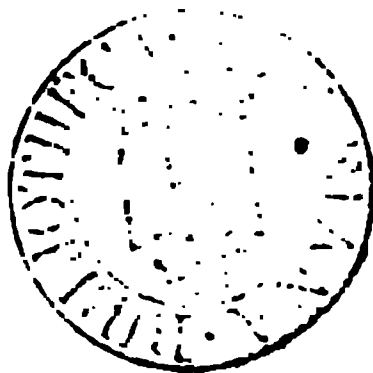
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**JOHN JOHNSTONE,  
15 PRINCES STREET, EDINBURGH; AND  
26 PATERNOSTER ROW, LONDON.**

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**M.DCCC.XLVIII.**

EDINBURGH:  
JOHNSTONE, BALLANTYNE,  
44 HIGH STREET.



## LETTER.

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MY LORD DUKE,

I HAVE just read your Grace's lately published volume on Scotch ecclesiastical history. I have read it both with admiration of your Grace's talents, and with regret for the confident and censorious tone by which it is too much distinguished.

I wish to bring under the notice of your Grace a misrepresentation, which, I am sure, was not intended on your part, but which is fitted to increase the unfavourable opinion entertained of the character of the Free Church of Scotland by many of those who will be your readers.

Judging by the language of your Grace, there is not, and never was, any considerable body of Protestant Christians, that can be said to have run into such excesses of irreverent, illogical, and inapplicable quotations of Scripture, as the modern Free Church-

men of Scotland have done. Scripture has been misinterpreted and misapplied before—and in Scotland and by Scottish Presbyterians, too—but we have surpassed all others in the degree to which we have carried the abuse. In support of this view, your Grace expatiates on certain quotations which occur in the Free Church Catechism. Permit me to mention them.

1. There is Matt. xvi. 18.—referred to, along with other texts, at Quest. 27 of the Catechism (enlarged edition), for the purpose of proving that “the office-bearers of the Christian Church are alone entitled to administer its government.” Your remarks are these:—“The first text quoted by the Free Church, in support of Presbyterian claims, is, likewise, the favourite text of Rome. The same motto, which floats on the banner of the Free Church, is the motto which, for ages before the Free Church was born, has floated on the banner of the Papacy. Who, that has visited Italy, does not remember the great circle from which the glorious dome of St Peter’s rises, and on which is inscribed, in letters of gold mosaic, ‘*Tu es Petrus,*’ &c.? This, too, is the text first and prominently quoted by the ‘Constitutional Catechism’ of the Free Church in support of its favourite dogma of the absolute and sacred distinction and separation to be maintained between civil and spiritual power.” (Pp. 220–1.)

2. Another quotation founded on is John xx. 23, referred to in the Catechism for the same purpose

as the first. Your Grace declares: "I am astonished that any Presbyterian could dare to quote this passage as applying to the ordinary powers of the ordinary office-bearers or assemblies of the Church." "The Scotch Reformers have reiterated their assertion, that no earthly governors or authorities of the Church—no assembly—no council—have the smallest claim to such powers as are here referred to," &c. (Pp. 321-2.) There is a good deal more to the same effect.

3. A third quotation is Acts xx. 17, 28, set down to show that it is on spiritual rulers that the responsibility of Church government is devolved. Your Grace has similar remarks on this, p. 325.

4. On a fourth quotation, John xviii. 36, your comment is: "I can only say, that I cannot conceive any rational man quoting these words as having any bearing—as even pointing at—the relation between Church and State—that is to say, between the ordinary office-bearers of the Christian society and Christian magistrates or legislatures." (P. 326.) Your Grace will allow that this is a strong saying.

These are the proofs by which you maintain the pre-eminent delinquency of Scottish Free Churchmen, in the matter of the quotation and interpretation of Scripture. Fortified by these examples, you say of the Catechism, that "in every page of it almost, Scriptural texts are quoted in senses which they not only do not support, when taken in their natural connection, but with which they have abso-

ties with every recognised rule  
still more, with every right pri  
tation." (P. 334.)

Now, my Lord Duke, after al  
the fact? You have put your case—  
your verdict—and, with your Engl  
probably have it your own way.  
the fact? Do these quotations, on  
entitle you to load us and our Ass  
opprobrium than should be cast up  
of Protestant divines? Let us see.

1. The first of the four quotation  
19. I have already cited your elabo  
of the Free Church for this. You  
surprised to learn that the same qu  
and for the very same purpose, in  
Confession of Faith—the Confessi  
your Grace is aware, not of the F-

magistrate. (*Conf.* xxx. 2.) It is “the text first and prominently quoted” in the Confession of Faith, just as it is in the Free Church Catechism.

2. The second quotation was John xx. 23, with respect to which your Grace is “astonished how any Presbyterian could dare to apply it to the ordinary powers of the ordinary office-bearers of the Church.” Your Grace, however, will find that the Presbyterian Church of Scotland so applied it in the Form of Process, which was adopted in 1707, and is still in force. And I am obliged to state, that the Presbyterian Parliament of Scotland enacted as follows, at the Revolution, long before the Free Church Catechism was drawn up: “To these officers (Christ’s officers, who are distinct from the civil magistrate) the keys of the kingdom of heaven are committed, by virtue whereof *they have power respectively to retain and remit sins*; to shut that kingdom against the impenitent, both by the Word and censures, and to open it unto penitent sinners, by the ministry of the gospel, and by absolution from censures, as occasion shall require.”\*

\* Westminster Confession of Faith, xxx. 2. It is unnecessary to explain to those who have paid attention to this subject, that the power of binding and loosing, of retaining sins and remitting them, which the Protestant Churches are accustomed to ascribe to the Christian ministry, is not absolute or infallible, but simply *declaratory*. Instances of a declaratory power, expressed in similar language, are not uncommon in Scripture. See Jer. i. 10; Ezek. xxxii. 18, xliii. 3; Hosea vi. 5; Rev. xi. 3–6. See also Lev. xiii. 3, 23, where our translators have correctly rendered in the declaratory form—“The priest shall *pronounce him unclean*,” “The priest shall *pronounce him clean*”—what is expressed absolutely in the original—“The priest shall *defile him*,” “The priest shall *cleans* him.” A



These words, my Lord Duke, express the faith, not only of the Presbyterian who made the first draft of the Free Church Catechism, but of every orthodox Presbyterian in Scotland, England, Ireland, and America.

I concur with your Grace when you say, with respect to the tenet that the power of binding and loosing, of retaining and remitting sins, belongs to the ordinary office-bearers of a Presbyterian Church, that “you need not show to your English readers the absurdity of such pretension.” (P. 325.) Many of them will believe in it at once, as regards “the office-bearers of Presbytery,” even although they should remember that the same power is ascribed in their own ordination service to every clergyman of the Church of England.\* But many of them will not remember, and some of them don’t know, what the ordination service contains; and all such will take from your Grace the impression that we have put upon Christ’s words a meaning which no other Christians do or ever

declaratory spiritual power may be in the hands either of men who are themselves inspired, or of men who have the written Word for their rule. In the former case, there can be no error in its exercise; in the latter, the validity of its sentences will depend on their conformity to the Word.

\* “The bishop, with the priests present, shall lay their hands severally upon the head of every one that receiveth the order of priesthood—the receivers humbly kneeling upon their knees, and the bishop saying, ‘Receive the Holy Ghost for the office and work of a priest in the Church of God, now committed unto thee by the imposition of our hands. *Whose sins thou dost forgive, they are forgiven; and whose sins thou dost retain, they are retained.* And be thou a faithful dispenser of the Word of God, and of his holy sacraments,’” &c.

did, and have thereby given an additional proof that the country was never plagued, and Christianity among us never scandalized, before, by so wild and irreverent a fanaticism as that of the Free Church of Scotland. Your voice, my Lord Duke, in the House of Lords, was against his Grace of Buccleuch; but your pen may help to constitute him, in the opinion of not a few, a public benefactor. The lord of Canobie may excuse what you said, on account of what you have written. You expressed the opinion that the Free Church should be tolerated; but you create the opinion that the Free Church is a nuisance.

Generally, in regard to these two passages, Matt. xvi. 19, and John xx. 23, for quoting which, as we have done, you hold us up to so much odium, I have to tell your Grace that all Reformed Churches, both at home and abroad, with scarcely an exception, have applied them in a similar way, and that the great majority of Protestant commentators, whether Presbyterian or Episcopalian, from Calvin downwards, have understood them as relating to "the ordinary powers of the ordinary office-bearers" of the Church. Bishop Hoadley is on your side; you have the Independents too (but not Dr Owen); you have Erastus, Selden, and their school; I think, also, the Society of Friends; and I know of none other. I mean that these are in favour of your interpretation of the texts. You will find no human being, that has the least acquaintance with the matter, on

your side, in the representation your Grace has given of the Free Church of Scotland.

3. The third quotation was Acts xx. 17, 28, respecting which I shall merely say, that you will find it given in the Confession of Faith (xxx. 1) exactly as it is in the Catechism.

4. The only remaining quotation was John xviii. 36. Your Grace “cannot conceive any rational man quoting these words as having any bearing—as even pointing at—the relation between Church and State.” On the rashness of this language I do not dwell. It is enough to say, that the text is quoted daily by Dissenters and Churchmen, by Voluntaries and non-Voluntaries, by every Protestant denomination of Christians, as bearing on the relation between Church and State. Like all the rest, it is quoted, precisely as it is quoted by us, in the Confession of Faith (xxxi. 5).

I hope your Grace will not mistake the nature of my complaint. It is not that irrelevancy in the quotation of Scripture is imputed to us, and not to our Presbyterian forefathers; but it is that your language will make it be believed that we stand unrivalled in the extravagant lengths to which we have gone; and especially it is, that you rest your opinion in regard to us on a set of examples, at which you teach your “English readers” to hold up their hands in horror, never mentioning all the time (and never knowing, I do believe), that one of these examples occurs in the ordination service of the

Church of England; that two of them—what you count, perhaps, the most flagrant two—are in accordance with the views of the principal Churches, and most of the commentators, of the Protestant world; and that all of them are to be found in what has been, for the last two centuries, the great Presbyterian formulary, and is, at this moment, the standard appointed by law for the Scottish Establishment—the standard which must be subscribed by every office-bearer, whether minister or elder, of the Church of which your Grace is a member. This is my complaint; and I cannot but think that, had your Grace been aware of the facts to which I have called your attention, you would have abstained from using language which must convey to your “English readers” the impression, that the application which the Catechism makes of the texts you have descanted on is unprecedented, and you would not have dragged into your pages my humble name as that of an offender who has “dared” to interpret God’s Word in a way that is novel and extraordinary, and for which no respectable example can be produced.

Similar to your Grace’s treatment of us on the subject of quotation from Scripture, is the following language on another point: “The rite of confirmation, the use of the cross in baptism, and the practice of setting aside any day but Sunday for peculiar devotions,\* are gravely instanced (in the

\* I am sure your Grace must know that the Free Church of Scotland, in common with other Presbyterian denominations, both approves of, and

unseemly and irrational ideas  
truths with the most trivial and  
It proceeded, perhaps, from com-  
ster who wrote the Catechism  
sanctioned it; but it is a con-  
the most scraggy ever conceived  
remember nothing more fanatic  
of the covenant—we have seen none  
even in the pages of Spottiswood.

Of course, your Grace's readers  
here again you have caught a new  
of the Free Church Catechism.  
ever, to say the least, as the effect of  
Reformation. The First Book of  
is much admired by your Grace,  
the contrary doctrine we understand  
by laws, councils, or constitutions,  
the consciences of men with

*holidays* of certain saints commanded by man, as be all those that the Papists have invented, the feasts (as they term them) of the apostles, martyrs, virgins, of *Christmas*, circumcision, Epiphany, purification, and other fond feasts of our Lady; such things, because in God's Scriptures they neither have commandment nor assurance, we judge them utterly to be abolished in this realm—affirming, farther, that the obstinate maintainers and defenders of such *abominations* ought not to escape punishment of the civil magistrate." Again: Whosoever presumeth in *baptism* to use oil, salt, wax, spittle, conjuration, and *crossing*, accuseth the perfect institution of Christ Jesus of imperfection; it was void of all such inventions devised by man: and such as would presume to alter Christ's perfect ordinance you ought severely to punish."

When your Grace taunts us, as you often do, with a check applied by "the anchors of John Knox" to our fanatical vagaries, none, that did not know the truth, could dream that declarations like these ever came from the pen of the Reformer. Your Grace ought to have stated that, from the beginning, the Church of Scotland regarded holidays, crossing in baptism, kneeling in the communion, with such like usages, as savouring of Popery, and, on the ground that they confessedly rest on human authority, and not on the laws and authoritative examples Christ has given us in the Bible, as "interferences with the lordship of Christ;" and that some of the most

correct the evil you have done  
access to important circles,  
Grace's rank and high connections  
be extensively read, and in which  
so far as they are unfavourable  
citly received.

I shall say nothing in reply  
your Grace; nor is it necessary  
opinions your Grace has been  
not, indeed, acquiesce in the fair  
description of the Catechism (P)  
the force of your arguments against  
tained in it. At the same time,  
assail, as keenly as you please,  
cerning the Headship of our  
we believe that doctrine to  
are not entitled to raise unfavourable  
the minds of those who, alas!  
judice alone.

isms" to speak for itself in answer to all you  
ged.

I am,

MY LORD DUKE,

With all respect,

Your Grace's obedient Servant,

ANDREW GRAY.

RB, 9th November 1848.

.—Your Grace asks me a question respecting  
baptism. You will find it answered by anti-  
n, in a note on p. 17 of the enlarged edition  
Catechism.





**IMMORTALITY:**  
**ITS**  
**R E A L   A N D   A L L E G E D**  
**EVIDENCES:**  
**BEING**  
**AN ENDEAVOUR TO ASCERTAIN**  
**HOW FAR**  
**THE FUTURE EXISTENCE**  
**OF**  
**THE HUMAN SOUL**  
**IS DISCOVERABLE BY REASON.**

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**SECOND EDITION,**  
**REVISED AND ENLARGED,**  
**WITH OBSERVATIONS ON FUTURE PUNISHMENT.**

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**By J. T. GRAY.**

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**"To be, or not to be:—that is the question."—HAMLET.**

**LONDON:**  
**JACKSON AND WALFORD, 18, ST. PAUL'S CHURCHYARD.**

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**1847.**

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# ADVERTISEMENT

TO THE FORMER EDITION.

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AT the suggestion of a friend, the longer classical quotations which, in a former impression of this pamphlet, were simply transcribed from their respective authors, are here, (except in the notes,) translated ; the original text is still given at the foot of the pages.

It may be proper to state, that the treatises which have been chiefly examined to discover the testimony of reason on the subject, have been *The Phædo* of Plato, *The Tusculanæ Disputationes* of Cicero, and *An Original Essay on the Immateriality, &c., of the Human Soul, founded solely on Physical and Rational Principles*, by Samuel Drew, A.M., Fifth Edition.

10, *South Crescent, Bedford Square,*  
*March 18th, 1843.*

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The Author is concerned to find, that misconception has arisen, in some quarters, as to the scope and aim of a portion of the reasonings in the former pamphlet—the disbelief which he had expressed of the sufficiency of certain arguments to

prove human immortality, having been construed into a disbelief, on his part, of the doctrine itself. He hopes he has succeeded in this edition in obviating the possibility of such an interpretation. He has only, further, to request the indulgence of the reader for the almost constant use throughout the pamphlet of the personal form of expression—an offence, he is aware, against good taste, but which arose originally out of the circumstances, not now necessary to explain, of the composition.

*London, November 9th, 1847.*

## IMMORTALITY OF THE SOUL.

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It has been justly remarked by Paley, that much may be gained by investigation to the stability of our convictions, even in respect to doctrines the most generally acknowledged. As occasions will be almost certain to arise, in the course of life, to try the firmness of our opinions, it is, he properly observes, on such occasions, “of incalculable use to *feel our foundation*; to find a support in *argument* for what we may have taken up on *authority*.”

The particular line of inquiry which he thus seeks to vindicate and recommend is the evidence of the divine existence; but the consideration which he adduces will apply with equal force to the question of the “Immortality of the Soul.” As this truth is secondary in importance to the former, (though to the former only) it is more likely also to become a subject of controversy and doubt. Speculative atheism, although unhappily shown by facts to be a possibility, is yet doubtless rare; but the number is probably considerable of those who, despairing of an immortality of bliss hereafter, are but too content to renounce an immortality of being, and to accept a destiny no better than that

of the "beasts which perish." For the confutation or exposure of such scepticism, Scripture texts, however decisive, would be, we need scarcely say, wholly futile. It is observable that the particular point on which we are enjoined in Scripture to be prepared to justify our faith is precisely that which unbelievers of this class would discredit. "Be ready always to give an answer to every one who asketh you a reason of the *hope* which is in you with meekness and fear."\*

Many, who are at the farthest remove from professed scepticism, are yet subject to illapses of sceptical thought, their scruples respecting perhaps, among other doctrines, the leading one now under notice. In this age of general reading, an entire ignorance of such scruples is the privilege (if it be a privilege) probably of few. The scruples involve no guilt; but they may be productive of much disquietude, and are not always unattended with danger. For the satisfaction then of our own minds, as well as of those of others, an inquiry into the rational evidences of our immortality cannot but be deemed of prime importance.

There is the more seasonableness in such a discussion at the present time, on account of the novel views which have been recently put forth as to the doctrine of revelation itself on the subject. By more than one divine it has lately been denied that Scripture teaches the immortality of all men.

\* 1 Peter, iii, 15.

The “life and immortality brought to light by the gospel” are promised, it is argued, *to the regenerate only*, the ultimate lot of others continuing to be, as originally threatened, death. As a difficulty would arise to this theory from the numerous passages in the New Testament which speak of eternal punishment, it is contended that the word “eternal” has often in Scripture a modified significance, and that a perpetuity commensurate with the duration, whatever it be, otherwise ascertained to belong to man, will fully satisfy the meaning of the word in the above passages. We are thus thrown back to the investigations of reason for the proof of a point on which hitherto the more common reluctance has been to admit reason as a witness at all, and are called on unexpectedly to make good a title which had passed till now for undisputed. It is an infelicitous necessity under which this new aspect of the subject places us, that we cannot plead for the immortality of man, without seeming to plead for the immortality of his misery; we shall, however, reserve some separate observations on this branch of the inquiry for the close of the general argument.

It does not follow, because we are willing to take up the question on the terms of the parties just named, that we reckon the testimonies of reason and revelation of equal value. There are, at least, two obvious particulars of superiority in that of the latter to the former, which we will here briefly indicate—those of *certainty* and of *fulness*.



We specify first the *certainty* of the information given. A little reflection will show that from the efforts of reason alone it would be absurd to expect an absolute certainty of conviction respecting a future state. One main source of certain knowledge—the method of experiment—is plainly altogether unavailable in such an inquiry. Nor is the subject one which will admit of demonstrative proof. Demonstration can only have place in matters of abstract reasoning, the creations of our own mind; but here we have before us an actual, living substance, the question being what is the future term assigned for its duration. To solve this question, is manifestly to ascertain the will of the Author of the substance, a task which, revelation apart, we can accomplish only by indirect methods. What comparison between the difficulty of such a discovery, and the prior one of the divine existence! The latter is but a simple step from effect to cause; here we are launched at once into abstruse considerations of necessity and fitness. To a finite intellect where can there be greater danger of mistake than in thus attempting to scan the infinite? The necessities or proprieties which we fancy we see for a given course may not exist; the divine perfections not stand pledged as we imagine.

These observations seem corroborated, in a degree, by fact. If we examine the most celebrated ancient treatises on the subject, we do not find the authors generally claiming more for their speculations than a high probability. Cicero, one of the

most distinguished, while he discovers a strong bias to the belief of immortality, yet argues at length on the other alternative, anxiously extracting whatever consolation he can from this latter hypothesis. In different parts of his writings his mind seems to be oscillating between the two extremes. He expressly tells us in one passage that he considers it the business of a deity alone to determine the truth decisively.<sup>1</sup> The tone of the Athenian philosopher,

Whom well inspired the oracle pronounced  
Wisest of men

was more confident; but even he did not succeed, it would appear, in imparting his confidence to his friends. We have, it is well known, a record by Plato of his discussion of this very point in his closing hours. In the course of this discussion, we find one of the party thus expressing his state of feeling :

“I cannot but subscribe to what Socrates has said ; yet I own that the greatness of the subject, and the natural weakness of man, occasion within me a sort of distrust and incredulity.”<sup>2</sup>

A still more remarkable confession on the subject is that which is attributed to the same speaker in an earlier part of the dialogue :

<sup>1</sup> Harum sententiarum (de animo,) quæ vera sit, dens aliquis viderit ; quæ verisimillima, magna quæstio est.—*Tusc. Disp.* § xi.

<sup>2</sup> Οὐκ ἔχω ἔτι ὅπῃ ἀπιστῶ, ἔκ γε τῶν λεγομένων ὑπὸ μέντοι τοῦ μεγέθους περὶ ὧν οἱ λόγοι εἰσὶ, καὶ τὴν ἀνθρωπίνην ἀσθένειαν ἀτιμάζων, ἀναγκάζομαι ἀπιστίαν ἔτι ἔχειν παρ’ ἐμαυτῷ.—*Phædo*, § 115.

“One of these two things must be done ; we must either learn the truth from others, or find it out ourselves. If both ways fail us, amidst all human reasons, we must fix upon the strongest and most forcible, and trust to that, as to a ship, while we pass through this stormy sea, and endeavour to avoid its tempests, until we find out one more firm and sure, such as a promise or revelation, upon which we may happily accomplish the voyage of this life, as in a vessel that fears no danger.”<sup>3</sup>

In this passage we have a distinct admission of the need of a direct communication from above, (λόγος θεῖος τις) in order to full satisfaction. Whether the passage exhibits the sentiments of the writer himself, we cannot be sure ; might we so regard it, it would, taken in connection with the sentence from Cicero above, be virtually a surrender, on reason's part, of the competition. Here, accordingly, our obligations to the Christian Scriptures commence. For precarious surmise, they give us authoritative statement; for the glimmer of twilight, the blaze of day.

We notice, secondly, the superior *fulness* of the testimony of revelation. The information which reason can afford us, as to the *nature* of a future existence, is deplorably meagre. Whatever it has undertaken to add, on this point, to the general

<sup>3</sup> Δεῖ γὰρ περὶ αὐτὰ ἐν γέ τι τούτων διαπράξασθαι, ἢ μαθεῖν ὅπῃ ἔχει ἢ εἶρεῖν· ἢ, εἰ τᾶυτα ἀδύνατον, τὸν γοῦν βέλτιστον τῶν ἀνθρώπινων λόγων λαβόντα καὶ δυσεξελεγκτότατον, ἐπὶ τούτου ὀχούμενον, ὥσπερ ἐπὶ σχεδίας, κινδυνεύοντα διαπλεῦσαι τὸν βίον· εἰ μὴ τις δύναιτο ἀσφαλέστερον καὶ ἀκινδυνότερον, ἐπὶ βεβαιότερου ὀχήματος, ἢ λόγου θείου τινὸς διαπορευθῆναι.—§ λς.

hint of a distribution of rewards and punishments may be said to be so much error—so much needing to be unlearnt. Bishop Butler's language on this subject has always appeared to us very singular. "The reader is desired to observe," he says, "that Gentile writers, both moralists and poets, speak of the future punishment of the wicked, both as to the duration and degree of it, in a like manner of expression and of description, as the Scripture does. So that all which can be positively asserted to be matter of mere Revelation with regard to this doctrine, seems to be that the great distinction between the righteous and the wicked shall be made at the end of this world; that each shall *then* receive according to his deserts." <sup>4</sup>

It is with the utmost diffidence that we dissent from any laying down of Bishop Butler; but, in the above extract, we are at a loss which to be surprised at most, the exclusive or the inclusive items. The only matter of decided revelation respects the *time* of destined retribution! What other time then, than the end of the world, or say rather, the end of life, do either poets or moralists assign? We are unprepared to set our limited range of reading in opposition to the Bishop's; but we must confess, at present, to entire ignorance of the peculiarity which he intimates. As it regards the duration and degree of future punishment, if in the latter is comprised the species also, what war-

<sup>4</sup> Analogy, Book 1, Chap. 2, Note.

rant can be shown for so respectful a mention of the poetic legends? Very different, we are sure, was the opinion of these legends entertained by the heathen themselves.

That angry justice formed a dreadful hell,  
That ghosts in subterraneous regions dwell,  
That hateful Styx his sable current rolls,  
That Charon ferries o'er embodied souls,  
Are now as tales or idle fables prized,  
By children questioned, and by men despised.<sup>5</sup>

Such was the language of the celebrated Roman satirist—an estimate, there is reason to believe, concurred in by all the educated of his time. With regard to the moralists, let it suffice to produce the theories of the two writers whom we have already quoted. It is seriously contended by Socrates, that human souls transmigrate after death into the bodies of quadrupeds and insects. As to Cicero, his imagination could devise no fitter mansion for the disembodied spirit than a certain altitude in the physical heavens, to which, he gravely assures us, its native buoyancy would elevate it, and where, its field of contemplation immensely enlarged, it would rest in a sort of equilibrium. Revelation, we thus see, has nearly as much to do in correcting the vagaries of reason as in supplying its defects. Its retrenchments are as valuable as its additions.

<sup>5</sup> *Esse aliquid Manes, et subterranea regna  
Et contum, et Stygio ranas in gurgite nigras ;  
Atque una transire vadum tot millia cymba  
Nec pueri credunt, nisi qui nondum ære lavantur.*

*Juvenal. Sat. ii, v. 149—152.*

Enough, however, for the comparative bearings of the two sources of evidence on the subject. It may be well, before proceeding to examine more closely the separate testimony of reason, to inquire on which side any presumptions lie which may suggest themselves as to its competency. We intend no paradox when we give it as our own impression, that there is a presumption on both sides—a presumption in favour of the potential success of reason, but against its probable success. The distinction thus stated will, perhaps, be better apprehended when more particularly explained; it is, in extent, all the difference between a blind instinct and a clear conviction—between a vague subjective expectation, and a well-defined objective truth.

We deduce the former, then, of these presumptions from the nature of conscience, and the allowed universality of religious obligation. A religion without expectation of future recompense is as unintelligible to us as a religion without either faith or love. We might say that a genuine religious faith will inevitably embrace as a principal object such a recompense. For this position we think that we have unequivocal inspired authority. “He that cometh to God,” says the apostle, “must believe that he is, and that he is a rewarder of those that diligently seek him.”\* It will presently appear that a suitable recompense of piety in this

\* Hebrews xi, 6.

life is a forlorn expectation; a sincere religionist will therefore be animated by the hope of one in a life to come. The conscience of the impious will for a like reason be agitated by corresponding fear, his remorse instinctively pointing also in an upward direction. Let the reader remark, by the way, the association, in the above text, of the divine and of a future existence. These truths may not unaptly be characterised as the polar truths of natural theology, the one setting before us the *object* of our worship, the other the *motive* to it.

To understand the force of the second presumption, it will be desirable that we should dwell a little longer on the comparison of these two truths, noticing more especially the respective degrees of prominence given them in the revealed word. We meet with the former, it will be remembered, in the very first verse of the Bible. Throughout this volume indeed the divine existence is assumed as an evident truth, the very idea of a revelation plainly implying such existence. On the contrary, the doctrine of human immortality is matter of progressive development. The contemporaries of our Lord, who had in their hands the complete canon of ancient Scripture, were for the most part firmly settled in their belief of the doctrine; but as we travel backwards, signs of less decided conviction gradually appear. From the earlier portions of Scripture the truth is to be learnt rather inferentially than by direct statement. By such inference it was, it will be recollected, that

our Lord proved the doctrine. It is evident that the interpretation by which he educed it from the passage in the third of Exodus savoured to all parties of novelty. Indeed, the first inculcation of the truth was by silent action. Until the translation of Enoch, we have no evidence that the veil of futurity had, in any measure, been drawn aside. No doubt, this event broke the slumbers of reason, but it at the same time proclaimed those slumbers. It is preposterous to suppose that the inspired historian would make a mystery of any other than an absent truth. No; the starting-point of revelation was obviously, if the expression may be allowed, the halting-point of reason. We conclude then that the ability above presumed to belong to reason was a natural ability only; the corresponding moral ability, to recur to an old theological distinction, must, we fear, be denied her.

Let us proceed, however, to put these presumptions to the test. In the treatises before us,<sup>6</sup> the question of immortality is taken up by reason purely on her own resources, necessarily so in the two former treatises, professedly so in the latter. It will not be thought extraordinary that we should direct our chief attention to the classical authors. Reason in later times has been apt to deck herself, unconsciously perhaps sometimes, in the plumes of revelation; the fairest way of ascertaining what, unaided, she can do, is doubtless to observe what,

<sup>6</sup> See Preface.



unaided, she has done. As it regards the particular authors in question, no one will deny that their celebrity as philosophers entitles them to the first regard. In their respective ages, no names were greater than theirs for clearness of perception, or for comprehension and profundity of thought; few writers have since exercised a more potent sway over other minds. It is no presumption to regard them as fair expositors of the system of ancient Theism. Whatever light they have thrown, or have failed to throw, on the subject of our future existence, we are not far from the truth in asserting that,

“The force of nature can no farther go.”

“Unus Plato est mihi instar omnium.”

The sources from which unassisted reason has professed to deduce the immortality of the soul are principally six;—the nature and mutual relations of things, considered abstractedly;—the constitution of the soul itself;—its known instincts;—its capacities;—the analogies of the external creation;—and the aspects of the moral world.

The plan which we propose to follow in bringing these topics successively before the reader, will be, first, to notice such arguments, of whatever class, as must be pronounced unsatisfactory; and secondly, such as are, either wholly or partially, otherwise. In pursuing this analysis it will probably appear,

that some of the six sources of evidence enumerated can furnish arguments only of the former kind; some, arguments of the latter; while arguments of both descriptions may be found to belong to the others.

We can have no hesitation in placing all arguments *drawn from abstract relations* in the list of insufficient ones. Without exactly coinciding in the opinion of an eminent author,<sup>7</sup> that metaphysics are useful chiefly for their own cure, we hold it incontestable that *great moral questions* can be discussed satisfactorily only on *moral grounds*. It is incredible that interests "vast as eternity" should be suspended on speculations concerning the nature of entity and nonentity. Far more important topics of consideration, it appears to us, must be, supposing immortality to be an object ardently to be coveted, the *title* of mankind to the blessing; their *moral* as well as *natural* aptitude for its enjoyment; and especially, seeing that they are no longer in possession of their original moral integrity, the influence which this fact may be presumed to have exercised on the divine will.

But let us see what are the metaphysics on which so much reliance is placed. The two grand arguments employed by Socrates to establish the "Immortality of the Soul" may be said to be derived from the

<sup>7</sup> See Hall's Works, Vol. iv, page 432. ed. 1831.

“laws of contrariety.” Thus, for example, he lays it down as a fundamental proposition, that “whatever has a contrary owes its first rise to that contrary.” If this might be assumed as a premiss, it would, of course, easily follow, since life is the contrary of death, that death is the natural precursor to life; nay more, the producing cause of it. By what process then does he make out his primary axiom? Let us hear in his own words:—

“Let<sup>8</sup> us consider if it be not absolutely necessary, that whatever has a contrary should spring from that contrary. For example, when a thing becomes larger, must it not of necessity have been formerly smaller, before it acquired that magnitude?—Undoubtedly. And when it dwindles into a smaller form, it must, surely, have been greater before its diminution?—It must have been.

‘In like manner the stronger arises from the weaker, and the swifter from the slower.’

‘That is a plain truth.’

‘But further: when a thing becomes worse, must it not have been formerly better; and when more just, formerly less so?’

‘It cannot be questioned.’

‘Then it is sufficiently proved that every thing is generated by its contrary.’

‘Quite sufficiently.’”

<sup>8</sup> Σκεψώμεθα ἄρα ἀναγκαῖον ὅσοις ἐστὶ τι ἐναντίον, μηδαμῶν ἄλλοθεν αὐτὸ γίγνισθαι, ἢ ἐκ τοῦ αὐτοῦ ἐναντίου· ὅλον, ὅταν μείζῃ τι γίγνηται, ἀνάγκη πού ἐξ ἐλάττωτος ὄντος πρότερον, ἔπειτα μείζον γίγνισθαι; Ναι.—Οὐκοῦν καὶ ἐλάττω γίγνηται, ἐκ μείζονος ὄντος πρότερον ἔλαττον γενήσεται; Ἔστιν οὕτω.—Καὶ μὴν ἐξ ἰσχυροτέρου γι τὸ ἀσθενέστερον καὶ ἐκ βραδυτέρου τὸ θᾶπτον; Πάνυ γε. Τί δέ; ἂν τι χειρὸν γίγνηται, οὐκ ἐξ ἀμείνονος; καὶ ἐὰν δικαιότερον, οὐκ ἐκ ἀδικιωτέρου; Πῶς γὰρ οὐ; Ἰκανῶς οὖν ἔχομεν τοῦτο ὅτι πάντα οὕτω γίγνεται, ἐξ ἐναντίων τὰ ἐναντία πράγματα. *Phædo*, § 11.

Now for the application :—

“‘What<sup>9</sup> then ? Is there any thing opposed to life ?’

‘Without doubt.’

‘What is that contrary ?’

‘Death.’

‘What is it, then, which is produced from the living ?’

‘The dead.’

‘And what from the dead ?’

‘It must be confessed to be the living.’

‘From the dead then alike, living things and living men are produced ?’

‘So I think.’

‘And by consequence our souls are lodged in the invisible world (after our death ?)’

‘The consequence seems just.’”

It appears marvellous that an intellect so acute as that of Socrates should not have been staggered by the prodigious difficulties inseparable from the principles here propounded. Not to mention that they would as truly conclude the resurrection of the body as the “Immortality of the Soul,” which we allow would be an objection *ad hominem* only, the immortality of brutes is as necessary a consequence from them as that of men. Nay, it is only a fair corollary from the argument, that a continued series of alternations of births and deaths, of resurrections and dissolutions, may be expected.

<sup>9</sup> Τί οὖν; τῷ ζῆν ἐστὶ τι ἑναντίον; Πάνυ μὲν οὖν. Τί; Τὸ τεθνάναι.  
 ———— Ἐξ οὖν τοῦ ζῶντος τί τὸ γιγνόμενον; Τὸ τεθνηκὸς. Τί δὲ ἐκ  
 τοῦ τεθνεώτος; Ἀναγκαῖον ὁμολογεῖν ὅτι τὸ ζῶν. Ἐκ τῶν τεθνεώτων  
 ἄρα τὰ ζῶντά τι καὶ οἱ ζῶντες γίγνονται; Φαίνεται. Εἰσὶν ἄρα αἱ  
 ψυχαὶ ἡμῶν ἐν ᾧδε. ἔοικεν.—*Phædo*, § 16

The transmigrations of Pythagoras are nothing in number to the successive changes of state which this doctrine would involve. According to this — showing all things are indeed in a

Perpetual circle, multiform and mixed.

The doctrine carries us as far backward as it does — forward, and will as clearly prove us to have had a — number of prior existences as it prepares us for — future ones. One such pre-existence indeed — Socrates admits; but with equal consistency he — might have contended for a hundred; for, to use — his own language:—

“ All these contraries have their productions and generations — in their turns, going round as in a circle.”<sup>10</sup>

Even these absurdities, however, strike us as less — astounding than the implications of the original — proposition itself. By the terms of this proposition, death, so far from being an evil threatening life, is the very means of its production. It is the height of folly to speak of it as the termination of life; it is its commencement. It is indeed its contrary; but, strange to say, this very contrariety is causal of its existence.

In all this tissue of extravagance there is latent only one principal fallacy. Throughout his argument, Socrates is confounding the mutual relations of our *ideas of things* with the relations of *the*

<sup>10</sup> ἀλλ' ἀνταποδίδωσι τὰ ἴτερα τοῖς ἑτέροις γιγνόμενα, ὥσπερ ἐν κύκλῳ περιιόντα. § 16

*things themselves.* In a modified sense, it may be strictly true that our idea of one contrary produces, *i. e.* suggests, the idea of the other contrary; that thinking of 'heat,' for example, suggests the thought of 'cold:' but this is a very different thing from saying that heat produces cold. Wisdom is the contrary of folly; it doubtless often happens that the mention of wisdom calls up to the mind the image of folly; but who would entertain so ridiculous a notion as that of manufacturing the former out of the latter?

Some of the contraries adduced by Socrates are more properly *correlatives*; as, for example, 'greater' and 'less,' 'worse' and 'better.' In relation to these, his axiom is only true or intelligible if for the word 'produce' we substitute 'imply.' When a thing dwindles into a smaller form, it is confessedly *implied* that it was greater before its diminution. In the same manner, 'a stronger' necessarily implies 'a weaker,' and 'a swifter' 'a slower:' but between these two states there is plainly no imaginable connection of cause and effect.

A shorter examination must suffice for the other application which he makes of the doctrine of contraries. The axiom with which he starts here is, that a "contrary can never be contrary to itself;" (*αὐτὸ τὸ ἐναντίον ἑαυτῷ ἐναντίον οὐκ ἂν ποτε γένοιτο.*) in other words, that contraries cannot admit their contraries (*οὐκ ἂν ποτε θελησάιεν γένεσιν ἀλλήλων δέξασθαι.*) His meaning in this will be best under-

for example, between *unity* :  
he would maintain to be as  
*ness* and *evenness* ; and so  
*dishonesty*, as between *justice*  
then, is the process by which  
the soul's immortality is ded  
indirectly conveyed that the  
abstractions ; that it has an e  
death, and, consequently, can r

"The soul then does not admit of de

"No."

"Then the soul is immortal?"

"Most certainly."

"May we say that this has been c  
your opinion?"

"It has been fully made good, Sorre

In this irrefragable demons  
falsely and unphilosophically as  
in a

contrariety to death is but an assertion, in other words, of its immortality; to speak logically, a *palpable begging of the question*. We are inclined to think, that there was a mixture and confusion of the two ideas in Socrates' mind; especially as we find him a little before using language, which would intimate that the species of things, such as 'magnitude,' 'beauty,' &c., had a real subsistence.

We turn to the "physical and rational principles" of Mr. Drew. The speculations of this gentleman are quite as much of the ontological cast as those which we have just been noticing; nor do we know that their value is much greater. Their chief novelty lies in the views taken of annihilation, which, without the most distant idea of limiting the divine perfection, Mr. Drew holds to be impossible and inconceivable; in short, a self-contradiction. This is, assuredly, a high flight; to our thinking, scarcely less venturous than would be an attempt to disprove the divine existence. We should have supposed the absurdity lay in the contrary hypothesis; in denying, namely, that *whatever has had a beginning may also have an end*. It remains to be seen what are the adamantine pediments on which so ambitious a structure is sought to be reared. We are not aware that the subjoined extract is at all an unfair specimen of the author's reasoning:—

"If annihilation be a total extinction of all being, something must be reduced to nothing. But if the reduction of something



Is it hypercriticism to call like this as a "maze" of words and tautologies? Without author through the whole of its more salient features. first sentence, that the antecedents are but the same expressed. A similar remains members of the succeeding over the absurdity of attributing 'denomination' to a 'point.' have mixed up in his mind geometry with those of logic sentence there is an equally strange 'identify.' According to the the term, the identification of recognition of its *sameness*; and rightly catch his use of 'identify.'

of annihilation involves the latter view of 'nothing,' holds it up to rejection as a glaring absurdity. The same confusion of the ideas of 'substance' and 'state' continues to haunt him through the whole discussion; some of the sentences which it has occasioned would furnish the materials for no bad logical puzzles.

Our readers will scarcely wish to pursue this dissection of cobwebs further. If any of them should be disposed to blame us for having thought such super-subtlety worth a formal exposure, let them remember the established popularity of the treatises in which it is embodied. The "Phædo" from the first has been all but a text-book on the subject which it handles; and the five editions of Mr. Drew sufficiently proclaim the general admiration of his "rational principles."

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A second species of argument which, with some hesitation, we refer to the category of 'unsatisfactoriness' is, that derived from the capacities of the soul. This argument, to which we regret that our limits will oblige us to devote less space than we could desire, will be found stated with the greatest force and effect in Cicero, it being, indeed, one to which he was peculiarly qualified to do justice. His conduct of it principally turns on the resemblance which subsists between the human and the Divine mind. He dilates, for example, with great eloquence,

The preceding extract, we feeble representation of the refer those of our readers willibited to advantage, to the or "Disputationes." It is taken his accustomed felicity, by "Infidel Reclaimed." After poetry, some of the more stupe of human art and genius, he pr

"Whose footsteps these? Immor  
Could less than souls immortal thi  
Earth's covered o'er with proofs o  
And proofs of immortality forgot."

Now, with all the rhetorical ing, we much suspect its sou evidently, an illogical play on tl as there is in the C

used *rhetorically* only? It can only be understood as a *eulogistic* epithet, not as a *definitive*. The divinity claimed for the mind is, in fact, *simply superlative excellence*. As far as there is reference to its etymological import, it is indicative simply of resemblance to the divine nature; and because there is such a resemblance in one respect, does it follow that there is in another? To demonstrate the mind's excellence proves nothing as to its duration. If it could, we might as conclusively quote its want of moral excellence as supporting a reverse conclusion. The dissimilarity here is certainly as palpable as the former resemblance, and its illustration might be displayed with no less effect. There is no necessary connection between the ideas of turpitude and mortality; nor is there between those of immortality and intelligence. We can imagine all possible degrees of intelligence; are we to conceive the Creator bound to ally each one of these gradations indissolubly to infinitude?

We may here introduce (though in some respects, perhaps, its more proper place would be under the following head) the modified representation of this argument which is given by Addison. Among other excellent proofs, he remarks,<sup>12</sup> for the immortality of the soul, 'there is one drawn from the perpetual progress of the soul towards perfec-

<sup>12</sup> See "Spectator," No. 111.

tion, without the possibility of ever arriving at it, which seems to carry great weight with it.'

"How can it enter the thoughts of man, that the soul which is capable of such immense perfections, and of receiving new improvements to all eternity, shall fall away into nothing almost as soon as it is created? Are such abilities made for no purpose? A brute arrives at a point of perfection that he can never pass; in a few years he has all the endowments he is capable of, and were he to live ten thousand more, would be the same thing he is at present. Were a human soul thus at a stand in her accomplishments, were her faculties to be full-blown and incapable of further enlargements, I could imagine it might fall away insensibly, and drop at once into a state of annihilation. But can we believe a thinking being, that is in a perpetual progress of improvements, and travelling on from perfection to perfection, after having just looked abroad into the works of its Creator, and made a few discoveries of his infinite wisdom, goodness, and power, must perish at her first setting out, and in the beginning of her inquiries? . . . . . Would an infinitely wise Being make such glorious creatures for so mean a purpose? Can he delight in the production of such abortive intelligences, such short-lived reasonable beings? Would he give us talents that are not to be exerted? Capacities that are never to be gratified? How can we find that wisdom, which shines through all his works, in the formation of man, without looking on this world as only a nursery for the next, and believing that the several generations of rational creatures, which rise up and disappear in such quick succession, are only to receive their first rudiments of existence here, and afterwards to be transplanted into a more friendly climate, where they may spread and flourish to all eternity?"

This is undoubtedly fine writing, but it is equally cogent logic? To say the most, it appears to us that the argument so felicitously stated is applicable only to a fraction of the species, and that no such progress as is described can be attributed to

Ordinary minds. Of the vast majority the progression is certainly rather *the downward one* than the contrary; rather *from the man to the brute, than from the man to the divinity*. Can there be any appearance of reason then in claiming immortality for spirits thus self-debased? Where there is no actual commencement of a given course, is there any rational ground for expecting its consummation, or will any consistency require the Creator to force perfection on his creatures? From the fact that mankind are endowed with capacities susceptible of endless expansion, it may perhaps be allowable to conclude that the *means of such expansion have been provided for them*; but no law of fitness will require that *these means should be universally effectual*. Although the *aptitude* may, to adopt Paley's language, *infer design*; yet *design does not preclude frustration*. No other, therefore,<sup>13</sup> than a *conditional* immortality seems strictly deducible from this progression. It is only the 'magnæ animæ' distinguished below,—theologically speaking, regenerate spirits only,—whose destination this argument would prove it to be perpetually "to go on from strength to strength; to shine for ever with new accessions of glory, and brighten to all eternity; to be still adding virtue to virtue, and knowledge to

<sup>13</sup> The idea of a conditional immortality was familiar to the ancients. "Si, ut sapientibus placet," says Tacitus, "non cum corporibus extinguuntur magnæ animæ." Among the "sapientes" here alluded to, the Stoics, we presume, are principally intended. It appears to have been their tenet that immortality was rather a reward reserved for the virtuous than the birthright of all.

knowledge ; to be for ever beautifying in the eyes of God himself, and drawing nearer to him by greater degrees of resemblance." The argument is worthless, except to divines of the school above noticed.

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Closely allied to the class of proofs derived from our mental capacities is that which may be drawn from our moral instincts. In considering these, we shall find a distinction necessary, some of the instincts being, in our judgment, truly indicative of a future existence, others not, of necessity, so. The two principally claiming our notice are—*the alleged universal desire for immortality*, and *the alleged prevalent belief and expectation of it*. It is to the sufficiency of the argument from the former of these that we are disposed to demur. Let us take the exposition of it which is given by Addison. The following is the well-known soliloquy which he puts into the mouth of Cato:—

"It must be so—Plato, thou reasonest well ;  
 Else whence this pleasing hope, this fond desire,  
 This longing after immortality ?  
 Or whence this secret dread, and inward horror  
 Of falling into nought ? Why shrinks the soul  
 Back on herself, and startles at destruction ?—  
 'Tis the Divinity that stirs within us ;  
 'Tis Heaven itself that points out an hereafter,  
 And intimates eternity to man."<sup>14</sup>

<sup>14</sup> The ascription of this argument to Plato, on the authority, we presume, of Lucan, seems a mistake. No such reasoning is found in the "Phædo," much less is it the proof principally relied on.

Now admitting for the present the facts here insinuated, let us briefly examine the inference. The existence of an instinctive desire for immortality implies a reality in the object of this desire. But does it imply this reality to *individuals* only, or to *the race*? Take the parallel case of the desire for happiness. This desire is certainly as ardent, as truly unquenchable and universal as the other. But are all in the possession of happiness? It seems a mockery of our afflicted humanity to ask the question. And yet the instinct is not a delusive one. The implantation of the desire for happiness *Bespeaks a corresponding inclination in the Author of this desire to confer happiness.* It bespeaks, moreover, a *correspondent provision of the means of happiness by him.* It is a virtual declaration, in a word, that happiness is attainable and a virtual incentive to the pursuit of it. Now can a higher significance or obligation than this be extracted, we would ask, from the first-named desire? Not staying at present to dispute this desire's alleged intensity, allowing that it may claim to be styled a "longing," that it is even a passion, an appetite; can we yet find in this appetite the token of more than a *contingent immortality*? The article of a contingent immortality is no part of our creed; but, apart from revelation, there appears nothing in the idea itself inadmissible. It is a supposition, as has been already seen, which is held by some to be conformable as well to actual fact as to probable reason. We altogether repudiate the criticisms



and glosses by which they would deduce it from the Scriptures; but it would be uncandid to deny its abstract possibility. It is to the proof, however, of such a possibility only that the instinct now in question can be justly deemed serviceable. It might be difficult to see how the Author of our being could instil a strong craving for immortality into our bosoms, and yet wholly preclude its enjoyment, but no divine perfections that we can imagine would necessitate any advance beyond this.

A somewhat singular objection has been taken by an anonymous writer to the account which we have above given of the general thirst for happiness. This instinct, he remarks, is a sign *not that happiness is attainable, but that it once was possessed*; it has its object in the past, not in the future. His only reason for this representation of the matter is that the instinct is common to hopelessly-fallen natures with the human, as decisive of which, he quotes the expression: "The unclean spirit walketh through dry places, seeking rest:" (*αναπαύσιν*.) Matt. xii, 43. On this his comment is, "They desire happiness because they have once tasted it, not because they will ever taste it again." Thus, he adds "the true inference from the human desire is not that happiness will be co-extensive with the race, but that it has been." We are not concerned now with the correctness of the interpretation of the passage above given, but solely with the deduction from it. Why should it be

assumed as self-evident, that the "rationale" of a desire in a lost race must be the same as in a race not lost? Has this writer forgotten, or has he never read the story of Tantalus? In a punitive constitution, an express provision for disappointment may be more than free from just objection, and, therefore, more than credible.

We return to the alleged vehement desire for immortality. Are we so sure that the assumption of this desire is perfectly consonant to fact? Is it true that there is this horror of destruction? The exact nature of it, at least, requires investigation. Is it *annihilation*, we would beg to ask, or *death*, which is so dreaded? Is it the possession of a future life which is so eagerly desired, or the continuance of the present one? We decidedly incline to pronounce the latter, and would submit whether the same decision is not involved in the following sentence of the Roman philosopher—"Illud angit," he says, "vel potius excruciat, discessus ab omnibus his quæ sunt *bona in vitâ*." The immortality which the majority covet is not an immortality in the abstract, but *an immortality on earth*. It is "the warm precincts of the cheerful day," which they are so unwilling to leave. If we may set the authority of one poet against another,<sup>15</sup> an immortality beyond the grave is to many a distressful prospect. We

<sup>15</sup> See the soliloquy in Hamlet already cited, "To be, or not to be," particularly the lines beginning,

"But that the dread of something *after death*."

memory. This anxiety, which, as said, may be read on the very tombstones, is with many only a yearning affection; in others, it is a passion it assumes this latter character, it is restless and importunate. The tears of a circle of friends go but a little towards satisfying it; it seeks to be enshrined in admiration, and that, not of contemporaries but through continuous ages. In a word, it seems not second to any of the passions of the human moral nature. Not only will it annihilate

“To scorn delights, and live laborious days”

it will even conquer the terrors of death, fully throwing away a real life for a fictitious one. We find the heroes of antiquity constantly sustaining their

“What ! can we imagine that so many, and such great men of our republic, who have sacrificed their lives for its good, thought their names would not continue beyond their lives ? No one ever encountered death for his country, but under a firm persuasion of immortality. Themistocles might have lived at his ease ; so might Epaminondas ; and, not to look abroad for instances, and among the ancients, so might I. But, I know not how, there adheres to our minds a certain presage of future ages ; and this both exists most, and appears clearest, in men of the best parts and noblest natures.” <sup>16</sup>

The orator proceeds to argue that this eagerness for posthumous fame, must have implied a sense of interest in posthumous futurity ; but here, we think, he forgets the wide difference between the “*de jure*” and the “*de facto*.” That the desire *ought* to imply such a sentiment we readily grant ; but as to the *fact*, let the appeal be made to individual consciousness. Did Themistocles or Epaminondas suppose for a moment that they should personally enjoy the honour which would attend their memory ? Does the warmest aspirant to posthumous renown expect such an enjoyment ? No ; he is aware, if he reflects, that he is chasing a shadow ; and it is on account of this latent consciousness, that the passion

<sup>16</sup> Quid in hac republicâ tot tantosque viros ob rem publicam interfectos cogitasse arbitramur ? iisdemne ut finibus nomen suum quibus vita terminaretur. Nemo unquam sine magna spe immortalitatis se pro patria offerret ad mortem. Licuit esse otioso Themistocli ; licuit Epaminondæ ; licuit, ne et vetera et externa quæram, mihi ; sed nescio quomodo inhæret in mentibus quasi seculorum quoddam augurium futurorum ; idque in maximis ingeniis altissimisque animis existit maxime et apparet facillime.—Tusc. Disp. 1., § 15.

for fame has by common consent been placed among the least rational of our solitudes,

“The last *infirmity* of noble minds.”

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We come now to a species of argument which, more than any other, since the days of Butler, has been a favourite one with writers on natural theology; that derived from the analogies of external nature. We can scarcely wonder at the partiality which has been evinced for it. Many of the facts which it employs as the media of its conclusions are in themselves so interesting as almost irresistibly to captivate the feelings; perhaps, in some instances, to captivate the judgment also. The force of analogy has been<sup>17</sup> stated to be “to refer us in things of which we doubt to a class of similar things, respecting which we entertain no doubt; to remove uncertainty by certainties.” Still more briefly, it may be described as furnishing us with *precedents for our belief*. The degree of support which it will lend to any particular hypothesis, must, of course, depend on the array of such precedents which can be produced; on their *number* and on their *pertinency*. A single relevant fact will do little more than authenticate the *credibility* of an hypothesis; to establish its *probability*, we must be prepared to show a decided *preponderance* of such facts over

<sup>17</sup> Analogiæ hæc vis est, ut id quod dubium est ad aliquid simile, de quo non quæritur, referat; ut incerta certis probet.—QUINTILIAN.

those of an opposite character ; while a conviction of its *certainty* can only be effected by evidence *that they constitute the rule.*

In relation to the present subject, two principal classes of phenomena were adverted to in the former edition, as having been thought by writers to afford satisfactory evidence ; the first, that of the frequent *instances of a seeming reviviscence of bodies from temporary death* ; the second, that of *the gentle progression which may be traced in the series of created natures.* As it is still our opinion that the latter of these analogies will be found a failure in argument, we give it here, according to the order we have prescribed ourselves, the precedence in consideration over the other.

“ *Order,*” says the poet, “ is heaven’s first law.” It has often been observed of the various tribes of existence, which are subjected to our use and dominion, that they compose a *regular chain of being.* Although, for the convenience of classification, we distribute them into families and orders, we are not to suppose that between these various orders there are any chasms or breaks ; on the contrary, we almost invariably find some intermediate class serving as a link of connection. Thus, the order of *zoophytes* is a link of connection between the animal and vegetable tribes ; the order of *amphibious* animals between the terrestrial and aquatic. In these two instances the community of nature is recognised in the name ; but

the fact itself is of proverbial notoriety. A practised zoologist would, in a few moments, probably multiply the two instances into twenty. The continuity is found to obtain, not only in the points of form and structure, but in those of habits and capacity; it is as perfect in the smaller creatures as in the larger. Now if the gradation of animate existences be thus regular *downwards*, why, it has often been asked, may we not conclude that it is equally so *upwards*? Is it not more probable than the contrary, that man is, likewise, an intermediate species;<sup>18</sup>—the “frontier instance,” say, between mortal and immortal natures. That there are natures of this latter descriptions—spirits unencumbered with our fleshly ligaments, and endowed with incorruptible youth, we are well convinced:

“Millions of spiritual creatures walk the earth  
Unseen, both when we wake and when we sleep.”

What should make us think that the being next them in the scale is a frail, transitory mortal? Yet if man be not an heir of immortality also, such an anomaly must exist; a link of connection would be wanting between the dying and the undying world.

<sup>18</sup> The striking idea of Pascal, though but partially similar, may be not inappropriately quoted:

“Car, enfin, qu'est ce que l'homme dans la nature? Un néant à l'égard de l'infini, un tout à l'égard du néant, un *milieu* entre rien et tout. Il est infiniment éloigné des deux extrêmes, et son être n'est pas moins distant du néant d' où il est tiré que de l'infini où il est englouti.” *Pensées*, Partie I, Art. 4.

That there is some plausibility in these speculations, we should be the last to deny ; but as far as the present inquiry is concerned, plausibility is the highest praise we can allow them. In the application of the analogy, it can hardly, we think, escape observation, that the assumption on which the whole argument turns, *is, to reason, purely conjectural*. From whence does reason derive its knowledge of an order of immaterial spirits ? There is no evidence within its cognizance which can certify it of any such essences ; apart from revelation, we know of no higher created natures than our own ;—know of no link between ourselves and the Divinity. If it be thought by any that the analogy under consideration renders such intermediate natures probable, whence arises, we would ask, the certainty or even probability, *that there is only one ?* Primâ facie, we should say, the inference would be that there is *a series of such natures, and that the ascending part of the scale is equal to the descending*. On this supposition there would be no absurdity in the conjecture that there may be other *compound* natures, besides the human ; and, in that case, for any thing in the law of gradation to the contrary, ours may be the lowest position of a triad ; the first, a semi-corporeal nature, immortal in *both* its parts ;—the second, in *one* only, the *spiritual* part ;—the third and last, in *neither*.

If such a conjecture must be treated as barely within the verge of possibility, as rather indeed a sportive than a serious imagination, what are we to



nk of the probative force of the reasoning which is suggested it? The truth is, that the analogy in which these strictures have been grounded, has been mis-stated. Its just significance is to render it probable that there is an upward gradation of created existence, but *in no way to determine our own place in it.*

Another analogy, which has of late been considerably relied on, is that derived from the indestructibility of bodily elements. Annihilation, it is said, is a thing utterly unknown in the material world—nothing in this system which has once existed has since ceased to exist;—all the particles which have ever belonged to any body are still to be found somewhere: they may be dispersed, but they are not destroyed. Why should we fear then, the argument is, an ultimate fate for the soul which is not incident even to the body? Dr. Brown (of Edinburgh) attempts to turn this argument on the sceptic in the form of a ‘*reductio ad absurdum.*’ “Death is a process in which every thing corporeal continues to exist; therefore, all that is mental ceases to exist.”\* We cannot but think this ridicule and triumph a little misplaced. It seems strangely forgotten that the immortality which we are now discussing is *not opposed to annihilation, but to death.* Whatever this latter process (we use Dr. Brown’s word) fails to destroy, it is undeniable that

\* Lectures on Ethics, Chalmers’ Edition, p. 451.

it destroys all which is sentient in the body—all its powers of action—all its powers of enjoyment. The absolute indestructibility, then, above claimed for the body—what, after all, does it amount to?—*the indestructibility of a pulp!* The scattered materials of an edifice are something different surely from the edifice itself. It is little consolation to me to be informed that a hundred years hence one part of my present bodily frame will be entering into a vegetable structure, another into a mineral—that some of its corpuscles will be in Europe, others in America. When thus dispersed, perhaps in a thousand different localities, what further unity, we ask, can the ultimate atoms of a body be said to have? What property in them their former owner? The plain account of them is that they are become a total wreck—a mass of ruins. Let us now suppose the soul to sustain in death a tantamount injury. Who would say that any existence it might afterwards retain would be worth ‘a pin’s fee?’ Would the most abject wretch care for an immortality thus seeming and nominal? It is not, let it be remarked, the truthfulness of the considerations above adduced which we dispute, but their value. The only incredulity, it strikes us, which they are fitted to rebuke is that which, as in apostolic times, would reject a resurrection as impossible, and to the service of such a controversy we dismiss them.

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We may now invite the reader to step over the

boundary line, which separates the fallacious portion of argument on this question, from the really forcible. In entering on this branch of the subject, our first attention will be due to the two topics which we just indicated under the last two heads respectively; the one an application of the analogical evidence, the other of that from moral instincts. We revert first to the analogy noticed.

There are, probably, few but have remarked various instances in nature of resuscitation from apparent death. As a common example, we may notice the striking change which takes place annually in the vegetable kingdom. To an observer, who for the first time should witness the effects of winter on this department of nature, what, we would ask, could be the impression suggested but that of hopeless decay? In the dry, knotty vine stem which would then meet his eye, he could no more discern a promise of the tendrils and clusters of the summer, than in a putrescent corpse of the radiant vigour of youth. *Both are apparent ruins.* Under similar conditions, we should doubtless be tempted to throw aside the chrysalis which might lie coiled up before us a torpid lump of matter. But what a change does time occasion! Give that inert ball the respite of but a few days, and you shall behold it burst its cerements and rise into the heavens, a form of grace and beauty. The revolution of a few months, similarly, is found to produce in the vegetable world all the symptoms

of a resurrection. As the spring returns, nature again puts on her verdant livery; the precious grain which lay buried beneath the clods shoots forth in welcome luxuriance: new buds and blossoms adorn the trees; the flowers and plants develop new hues and odours, and every twig seems instinct with life.

Is there now anything irrational in our deriving from such phenomena more cheerful views of our own destiny? The aspects in which they exhibit the Divine Omnipotence to us, must, at least, be acknowledged to be instructive. In the insect transformation, we see clearly, that under an apparent disorganization of frame *the germ of existence may be yet preserved: that an entire suspension of animation is not identical with its extinction*; and that a change, which to the eye may be unpleasing and even loathsome, *may yet be the natural process of transition to a higher state of being*. Is it improbable that the very *design* of such transformations was a lesson of hope to us? Authors without the slightest taint of theological bigotry have assumed so, nor would it be easy to assign an end more worthy of the Divine Providence. At all events we must (to use no harsher epithet) be incurably dull if we cannot read in such facts the *possibility* of our own resurrection and immortality, and thereby fortify ourselves against the ill-judged sneers and dogmatism of the sceptic. To employ the language of the distinguished divine above referred to, an impugner of revelation can never, while these facts remain, “be satisfied of the

... more directly. It may be  
some that we should found a proof  
a doctrine merely on the belief of  
however, the extent of the belief wh  
point. We have described it as *in*  
absolutely universal, it is, at least, :

<sup>19</sup> We scarcely think it wise to urge the argum  
further. To constitute it a certain *proof* of ma  
phenomena cited should not be *portions* but *spe*  
procedure; as common to one department of sen  
the other. A stubborn sceptic might refuse to  
emblems of his own prospects from the vegetable  
chrysalis were appealed to, he might still inquire  
an insulated fact was elevated into the rank of a la  
more force to suggest an *affirmative* than a thous  
*negative* conclusion.

The point to which some of the poets have pu  
is the extreme of absurdity. According to Y  
*exclude death from our conceptions altogether,*  
*course of nature. Change, not death,* he tells us,  
economy, and finds as apt an illustration of this cl  
sion of *winter to spring* as of *spring to winter*, c  
*day to night*. But this is proving too much. It v  
with the endless alternations of " "

constitute the rule in human history, amounting almost to a characteristic of the species. It will be admitted on all hands that very great importance is due to an agreement of this kind. The Roman philosopher will have it indeed to be equivalent to a demonstration :

“Omni in re consensio omnium gentium lex naturæ putanda est.”—Tus. Dis. lib. 1. § xiii.

But we cannot exactly allow this weight to it. Common consent will scarcely prove more than *a common origin* ; whether this be divine or human, authoritative or the contrary, must be argued on the evidence of each particular case. In the present instance, the general prevalence of a belief of an hereafter is certainly a remarkable phenomenon. It needs to be accounted for. A plausible explanation of it is the divine implantation of the belief ; if this solution be rejected, the objectors are bound to substitute a better. If not instinctive, the belief must have been generated and derived. Let them show its generation. If they call it a conclusion, let them name the grounds of the conclusion. The erroneous opinion of the immobility of the earth, which once prevailed universally, we can account for. It was a hasty deduction from the observations of sense. Let those who maintain the Immortality of the Soul to be a like error similarly show its origination. The general currency of this tenet, in the most diverse ages and nations, certainly entitles us to throw the re-

onsibility of proving their position on its opponents.

A cursory glance may here be properly given at an opinion which has always had a deep root in popular credence—the opinion, we mean, of spectral appearances.

“There is no people,” says Imlac, “rude or learned, among whom apparitions of the dead are not related and believed. This opinion, which perhaps prevails as far as human nature is diffused, could become universal only by its truth; those that never heard of one another would not have agreed in a tale which nothing but experience can make credible. That it is doubted by single cavillers, can very little weaken the general evidence; and some who deny it with their tongues confess it by their fears.”\*

We have the same observations to offer on this extract, as on the brief sentence from Cicero cited above. The universality of a belief does not *immediately* prove its truth, but only its common derivation. We have seen, however, in the former instance, that this leads *mediately* to much the same point at last; and, in the present instance, the conclusion is put only one step backward.

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Passing on now to the second source of evidence enumerated,† the constitution of the human soul, the grand fact to be taken notice of here is, of course, the soul's *immateriality*. None can well question this fact who are not prepared to deny altogether the soul's separate existence, the differ-

\* *Rasselas*, Chap. xxxi.

† See page 12.

nce between the two parts of our nature is so striking. The pertinence of this distinction to the inquiry before us is scarcely less obvious; from difference of *nature*, it is the most easy deduction of reason to argue a difference of *destiny*. We know no single line of proof, accordingly, on which there is so general a concurrence of writers as in this. The clearness and precision with which the point is urged by Socrates contrasts most advantageously with his laboured defence of the doctrine of contraries. As given by Cicero, the argument is little more than a re-production of the Socratic one, with some rhetorical touches and additions. The title-page of Mr. Drew will show that he has not overlooked it; he has devoted to its discussion no fewer than one hundred and eighty-four pages. Familiar as the argument must be to all who have even crossed the threshold of the controversy, it is not necessary that we should formally draw it out. The following quotation from the 'Disputationes,' will be found to present it, perhaps, in a form sufficiently terse and luminous:—

"In thinking on the soul, unless we are grossly ignorant in physics, we cannot but be satisfied that it has nothing but what is simple, unmixed, uncompounded. This being admitted, it can evidently be neither separated nor divided, dispersed nor parted, and therefore cannot perish; for to perish implies a tearing asunder, a division, a disunion of those parts which, before the perishing were held together by some bond."<sup>20</sup>

<sup>20</sup> "In animi cognitione, dubitare non possumus nisi plane in physicis plumbei sumus, quin nihil sit animis admixtum, nihil con-



*difficulties of the question.* That which is, for substance, coincides taken in the "Phædo," we cannot take as the only correct one. If immortality be a necessary consequence of immateriality, we cannot attribute of *irrational* animate existence of *rational*. But the force of immortality shows that the continued duration of the soul is *possible* and *credible*;—that especially, *any apparent tendency to dissolution to the contrary notwithstanding*.

If it be inquired, whence arises our mental powers from corporeal organs, the answer is ready; from the apparent dependence of those powers on our corporeal organs. On a superficial view this dependence seems to be necessary. As it is only by the senses that we become acquainted with the existence of other minds, so the senses are the great inlets of knowledge to the mind.

ing to our bodily health is the vigour of our mental operations. In all the processes of physical development and decay the mind intimately sympathizes, and it is possible by physical applications alike to quicken and to deaden its energies. Who shall undertake to say where this mysterious susceptibility of influence ceases? If the mind is not proof against injury from the body's derangement, is it likely that it will sustain the shock of its dissolution?

Little will be said by us in reply to this inquiry, which has not already been said by Butler in the first chapter of his *Analogy*; we, shall, however, refrain from urging some of the considerations which he adduces. He alleges, for instance, with others, the constant flux of particles which is going on in every living body, as a means of obviating the difficulty. So far, it is said, from the body's being necessary to the mind, a mind will outlast several bodies. The body of the man is not the same as the body of the child; perhaps no particle which helped to compose a given body at seven years will enter into the composition of the same body at seventy. How unreasonable then, it is argued, to suppose the soul tied to a congeries of these particles! Unreasonable, we allow, if the dependence asserted were *on one particular congeries*; but not if it be a dependence *on some congeries or other*. Under these successive changes of particular particles, the general organization remains; it is the

relation then of the mind to this organization which we have to determine.

The most general term employed by Butler to describe this relation is that of *interest*. He speaks of the mind *as being interested in the body*, or in parts of it; of their mutually affecting each other. Whatever may be the precise degree of this interest or affection, it may be safely affirmed that neither is universal. Various serious bodily injuries may be reckoned up which do not affect the mind in the least; what is more, various mortal diseases. "Persons in these diseases, the moment before death, appear to be in the highest vigour of life. They discover apprehension, reason, memory, all entire; the utmost force of affection; a sense of shame and honour; and the highest mental enjoyments and sufferings even to the last gasp."\* This latter class of facts supplies a presumptive answer to the question which closed above our statement of the difficulty. If days and months of previous endurance have not diminished the vigour of the mind, why should one final pang be supposed likely to destroy it?

The justest mode of considering the bodily organs, in relation to the mind, is as the parts of an exquisitely constructed machine or instrument, placed no less exquisitely under the mind's complete control. Because then, the machine has fallen to pieces, or become otherwise unfit for use,

\* See Analogy, Part I, Chap. 1, § 3.

has the actuating principle perished? This would be to infer the destruction of a moving power from that of the medium which transmits its impulses. It admits of easy illustration that the mind's susceptibility of affection from the body may be rather a misfortune than an advantage. Let us take the case of a tenement and a tenant. The convenience of the inmate of a prison will be much affected by the state of the chamber allotted him; any dilapidation or improvement of this chamber will tell materially on his comfort, it may be, on his health. A similar image is happily employed by Cicero to illustrate the use of the bodily organism to the mind as a medium of knowledge. "Suppose," he says, "a person to have been educated from his infancy, in a chamber where he enjoyed no opportunity of seeing external objects, but through a small chink in the window shutter; would he not be apt to consider this chink as essential to his vision, and would it not be difficult to persuade him that his prospects would be enlarged by demolishing the walls of his prison."\* It is almost certain, we might add, that the process of demolition would be a source of temporary inconvenience and suffering, and what absurdity is there in supposing, that the agonies of corporeal dissolution may be of this character? The likelihood is certainly as great that the moment of death may be the era of the mind's liberation as of its disappearance.

\* See Stewart's *Outlines of Moral Philosophy*, p. 233, 234.

We revert then with confidence to the grand distinction of material and immaterial above pleaded —

This frame compacted with transcendent skill  
Of moving joints, obedient to my will,  
Nursed from the fruitful glebe, like yonder tree,  
Waxes and wastes—I call it *mine*, not *me*.  
New matter still the mouldering mass sustains :  
The mansion changed, the tenant still remains ;  
And from the fleeting stream repaired by food,  
Distinct, as is the swimmer from the flood.\*

The escape of the soul from the ordeal of dissolution being thus made good, it seems superfluous to argue its further immortality. For what other danger in the futurity beyond can be supposed to await it? Thenceforward, for ought we know, its course will be as smooth as that of the Argo once through the Symplegades. The Newtonian law of inertia may, we think, without absurdity, be thus far enlarged. ‘Every substance has a tendency to continue in its present state, whether of consciousness or the contrary, if no disturbing forces intervene.’ If there are any who doubt the continued consciousness after death of the human soul, it is for them to prove the presence of these disturbing forces. We say advisedly, *to prove*; for speculation as to dangers which *may* threaten is idle and endless. It is the superstition which overrules what is known by what is unknown; the effeminacy which pleads possible annoyance in excuse for neglect of positive duty. The ridicule which Cicero pours on a small

\* Arbuthnot, quoted by Brown.

minority among the ancients who held the disjointed view which we are noticing is not needlessly pungent:

“The Stoics grant us a similar lease of existence to the crow’s; they allow the soul a *long* duration (after death,) but deny its *perpetuity*.”<sup>22</sup>

---

We now come to the argument derivable from the present aspects of the moral world, on which, as it is, without question, the most powerful which reason can furnish, it may be excused us if we dwell at somewhat greater length than on any of the preceding.

The following summary of the argument, partly in the words of a writer already quoted, will not be thought an exaggeration:—

“We do not always find visible happiness in proportion to visible virtue. All natural and almost all political evils are incident alike to the bad and good; they are confounded in the misery of a famine, and not much distinguished in the fury of a faction; they sink together in a tempest, and are driven together from their country by invaders:”<sup>\*</sup>—they are equally subject, we may add, to the infirmities of age, and to the attacks of sickness; each may be alike overtaken by those accidents which disable without destroying. Nor does a

<sup>22</sup> “Stoici autem usuram nobis largiuntur tanquam cornicibus; *diu* mansuros aiunt animos; *semper* negant.”—Tusc. Disp. 1, 31.

<sup>\*</sup> Rasselas, chap. xxvii.

exception to the general law.  
have been notoriously also the m  
and the most splendid talents ;  
listed in the cause of profligacy.

A Christian, however, is confes  
style of man." Perhaps we sha  
the depression of virtue when it  
piety, or the prosperity of vice wh  
into irreligion. Alas! it is prec  
that virtue is too commonly seen  
triumphant. The comparative po  
parties indicated in the Scripture  
peculiar in the *degree* of differ  
generally, a more abundant me  
prosperity falls to the lot of the ir  
contrary; more of the rich prizes o  
are in their hands. The author  
cordingly in the New Testament  
this world 23

such, to advance our temporal interests; it is not unfrequently an obstruction to those interests. Piety is too often the precursor of persecution. This fact is susceptible of illustration, either from the general history of the church, or from the biographies of individual Christians. The same cross which is the symbol of their faith is also the emblem of their profession.

Now how can we suppose that a state of society like this can be pleasing to a righteous Deity? It is among the purest dictates of our moral nature to associate with character and conduct the ideas of good and ill desert—the distinctions of virtue and vice, religion and irreligion, run parallel in our minds; instinctively, with those of reward and punishment. An earthly government which should reward rebellion would speedily become the contempt of its subjects; under the divine government, multitudes who virtually both deny and defy Providence live and die its apparent favourites. What can be the explanation of this startling anomaly? We know of no adequate one save that which quieted the ancient misgivings of the pious on the subject—the assurance, namely, that this is not the end—that the present state is solely one of probation—that there is a futurity in prospect when

Ihr Licht erfreut, doch macht es keinen reich :  
In ihrem Staat erringt sich kein Besitz.  
Den Edelstein, das allgeschätzte Gold,  
Muss man den falschen Mächten abgewinnen  
Die unter'm Tage schlimmgeartet hausen.

Wallenstein's Tod, Aufzug ii, Auftrag. 2.



The glory, jest, and riddle of

There are only three methods  
force of the above reasoning which  
likely to be resorted to—the two  
phical evasions, the latter a theolog

It may be said, in the first pl  
above representations good and ev  
by a wrong standard—that outwa  
they are called, are not the prop  
happiness, nor outward privations  
we are independent, for true enjo  
the state of our body, and of the  
cumstances; that virtue, in a word,  
tranquillity which it ensures, bei  
itself for a happy life, ought to be  
own reward, as vice is its own puni

This was the favourite line of a

well known. A still better instance is that of Socrates who, in a prison, and with the prospect of speedy death before him, preserved his cheerfulness unimpaired, continuing to the last, and with apparent sincerity, to express his preference of his own condition to that of his accusers. Such examples, we are free to confess, exalt our idea of human nature, making us blush, at the same time, for the degenerate modern philosophy which can define happiness by health.<sup>24</sup>

There are, however, one or two grave objections to our serious acceptance of the doctrine thus laid down. It will be noticed, in the first place, that the tranquillity, on which so much stress is laid, is altogether *a matter of private consciousness*. It does not appear to the eye of the world,—not more than the disquietude which, it is alleged, is inseparable from vice. Notwithstanding the one and the other, it is undeniable, that many of the vicious are objects of general envy, as many of the virtuous are of compassion. Our first remark, therefore, respecting the disproportion of *visible* happiness to visible virtue remains unaffected. The *scandal* of such disproportion continues as before, whatever may be the reality. To what a point of boldness this scandal may be carried, it is easy to learn from the celebrated antithesis of the poet

Victrix causa Diis placuit, sed victa Catoni.<sup>25</sup>

<sup>24</sup> See Paley's Moral Philosophy, Book 1, Chap. 6.

<sup>25</sup> Pharsalia, Book 1, Line 128.

...honour, and success, are  
or not, it is certain that they  
regarded, and the opposite stat  
Even philosophers, when off th  
the same strain of thinking and  
on the supposition of a future e  
the dissatisfaction felt with pr  
ordinations may be expected t  
recurrence, and the divine chara  
will continue to suffer.

Again, there are some casualtie  
nature is liable, the application  
above maxims seems almost ant  
instance the exposure to social  
the calamities (so reputed at leas  
and embitter life, none is more bi  
is one which the best are not exer  
case of Job may, on some acco  
scarcely relevant, we will take t  
D. 1. 1.

a season when such sympathy would have been peculiarly valuable. Would the most rigid Stoicism deny this to have been an evil? The insensibility to personal sufferings which this philosophy extols, would it steel us with against relative ills also? Carried to this extent, the theory would be built on the ruins of our social affections, and virtue become more odious than the vice which it pretends to pity.

To recur, however, to the case of strictly personal afflictions, we ask, in the words of the lost archangel,

—Lives there who loves his pain?

This boasted superiority to all bodily ill, to the wrongs of oppression and the frowns of fortune, is it, after all, more than a boast? The tranquillity of a philosopher, like Socrates, committed to certain principles by a long profession, and aware that a thousand eyes were upon him, is hardly a case in point. Virtue, under such circumstances, may be said to be acting on a stage; it is sustained by the sympathy of admiring friends, and by the hope of an admiring posterity. To test its self-sufficiency, our appeal must rather be to ordinary experience. Is it true then that it can preserve this impassive serenity under obscure and commonplace trials, and under protracted as well as under acute pangs? Is it true that it will compensate for all those nameless wants and discomforts which poverty comprises? Will it bear indignities as well as hardships? The examples of our theorists, we fear, will hardly suggest an affirmative reply to

Another Roman, scarcely less ac

Who, by the rule of his  
Did find it cowardly and  
The time of life,<sup>26</sup>

yet acted thus the coward. For these, what conclusion can we draw? Magniloquence in question, while pliments virtue, in reality, betrays, that the fortitude so vaunted : for *parade* than *service* ; that it comes only of great occasions, and and that it is less allied to *patience*

A second evasion of the moral future existence above noticed is *consideration of general laws*. All alleged, is universal good. The question are instances of except general laws, to complain of which

preceding one was with ancient. It has been blazoned, in particular, with all the splendour of poetry, by the celebrated Essayist on Man, unhappily not altogether in the spirit of Christian philanthropy. The following are specimens of the manner in which he would obviate the objection:

Think we, like some weak prince, the Eternal Cause  
Prone for his favourites to reverse his laws ?

Shall burning Etna, if a sage requires,  
Forget to thunder and recal her fires ? ——  
When the loose mountain trembles from on high  
Shall gravitation cease if you go by ?

To prevent the occurrence of even occasional grievances, it would be necessary, he argues, to abrogate all the laws alike of the physical and of the political world, and are we prepared for this alternative ?

Our first reply to this series of queries will be to demur to the accuracy of the representation which they involve. The evils which form the basis of our argument *are not exceptional but common evils* ; the ordinary phenomena of society. Depressed virtue and prosperous vice are facts of every day life ; depressed piety and its opposite still more so. It would be tedious to go over again, in proof, particulars already enumerated ; a reference to preceding paragraphs will show that it is the very framework and organisation of society which we criticise.

.Even allowing, however, the anomalies under

...by reasons of the  
other mode of meeting an  
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indeed, from thinking, (if onl  
substitute 'suspension,') that  
proscribed too absolutely. T  
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the dictate of the soundest pol  
flict positive injustice on a sub,  
would consent to such suspensi  
'weak,' for doing so. A more  
tive, generally, however, is the  
sufferer. It cannot be said t  
unknown to human legislation.  
contrary, in constant adoption,  
vested interests are affected, a  
adopted, still recognised. Sha  
equitable maxims are acted on i  
tration—that general interests a  
providen

ustitia, ruat cœlum," is affirmed essentially in all its strength in the New Testament. "It is easier," said our Saviour, "for heaven and earth to pass away, than for one tittle of the law to fail." Luke xvi, 17. Translated into philosophical language, what is this but saying, that the inviolability of physical laws must give place to the slightest urgency of moral? In the same chapter, v. 25, we have an affirmance of the indemnification principle, and still more explicitly in a subsequent passage: "Wherefore God," it is said, "is not ashamed to be called their God; for he hath prepared for them a city:" Hebrews xi, 16. The parties here referred to are those who, at the divine call, had foregone the comforts of an earthly home; the intimation is, if we mistake not, that the provision of a divine home for such would be considered *a point of honour*.

In much of this reasoning on general laws it is painful to discover that low estimate of the value of individual life which has usually been thought to characterise the mere politician. We know that to a Napoleon or to a Cesar a few hundred individuals are but so many pawns, which may be easily either dispensed with or replaced. A modern statesman will perhaps scarcely deem the redress of individual grievances worth his attention. Under the same erroneous notions of dignity, some philosophic divines have made a distinction between the general and particular providence of God. They will allow him to manage the affairs of communities; but the



the most in-  
vast concerns. The flight of a  
of a hair, do not escape its obs  
not content, therefore, with the  
cently quoted, that

All partial ill is universa

Even this partial evil we believ  
only, and that it is all noted an  
divine register, to be hereafter i  
most exact proportion.

The *theological* evasion which  
third resource with questioners o  
will not detain us long. We ar  
minded by sticklers for orthodox  
pious are still sinful, and, therefor  
suffering. This rejoinder, it is al  
to remark, does not meet the main  
is, the *comparative* one. Unless  
ness are denied at

remonstrance of the venerable patriarch : “ Wilt thou also destroy the righteous with the wicked. . . . . That be far from thee to do after this manner, to slay the righteous with the wicked : and *that the righteous should be as the wicked, that be far from thee* : Shall not the Judge of the whole earth do right.”\*

We are thus brought back, after all our attempts to escape elsewhere, to the harbour in which secure anchorage had previously been offered us. Amidst the thick darkness which at present enshrouds the moral world, the sole (but the sufficient) light which reaches us is from a future economy. In the character above ascribed by the patriarch to the Almighty is virtually contained the key to the whole mystery. Instructed by conscience, reason may rest in the conclusion, that a day of adjudication is approaching ; that this life is only a passage to another, when all perplexities will be unravelled, all irregularities adjusted, and their proper lot and position assigned to all ; that the supreme Governor has an eternity before him in which to redress every disorder. As the present evils of society bespeak the *necessity* for such a retribution, our confidence in the divine rectitude assures us of its *certainty*. Reject this supposition, and that rectitude must inevitably

“ Be questioned and blasphemed without defence.”

\* Genesis xviii, 23, 25.

It is one of the most extraordinary controversy which we have little use should be made noticed by the ancient metaphysicians, that the Tusculan philosophy is to it; in the mind of the Aristotelian, the reverse logical order to that assigned it. Retribution, according to Socrates, was the corollary of immortality; not immortality the *need* of retribution. We are disposed, from these circumstances, to judge of the accuracy of our estimate of it not our feeling that the instance is the verdict even more of reason. To appreciate the retribution, it is not so much which is requisite as a *sensible* and . . .

distinction which we took above, between reason's natural and moral competency. Partaking of the general degeneracy entailed by the fall, the province of reason, in this important discussion, seems to be to *defend* rather than to *demonstrate*; to *approve* rather than to *prove*. It will fail to regain the truth when lost; but may be expected to embrace it when propounded. The eminent congeniality of the truth to the mind may be inferred from the very weakness of many of the arguments which have been urged in proof of it. But for a strong antecedent bias to the conclusion, various ancient sages who appear to have acquiesced in these arguments would doubtless have scouted them with derision.

Philosophers, in explaining the nature of physical momentum, represent it as the product of two elements, weight and velocity. A deficiency in one of these elements may be counterbalanced by an overplus in the other; a small weight, that is to say, multiplied into a large velocity, shall have equal momentum with a large weight multiplied into a small velocity. Let it be permitted us to avail ourselves of this illustration in enforcing the moral *moment* of the preceding argument. The logical force of some of the proofs adduced is confessedly feeble; but what then? they are proofs of *immortality*. Where eternal interests are at stake, a simple presumption may be fairly put in the scale against certainty as to temporal. A *possibility* of

...even on a perau

The confessed awfulness—  
scription—of this latter alte  
ever, as hinted, a reason w  
with shyness on the abstr  
exacting on its behalf a stre  
of which it is not capable.  
province to take up the Scri  
doctrine of eternal punishme  
few strictures, however, on son  
considerations by which it l  
discredit it, may not be irreleva

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attempted to be forced on our  
may be called *processes of ar*  
teachers are all but reproache  
ting,' so the expression is, the  
their own minds and those of t  
ous calculi of approximation "

... ..

of these squadrons of figures shall either scare or shame into a recantation of the doctrine. The utility of these minutiae of representation has never altogether commended itself to our judgment. There are, we know, modes of summation even of infinite series, and it may be presumed that the same general vastness of idea which suffices for the Scripture exhibition of eternity, will suffice for our own conception of it. 'The infinite for the finite in retribution,' it is said, 'is no deduction of reason.' This axiom has, however, the disadvantage of proving too much, being conclusive, if admitted, against the endless punishment of fallen spirits, not less than of fallen men. The former will be allowed to be as truly finite creatures as the latter, and their offence to be finite as well as themselves. For aught we know, this offence consisted in a single act of rebellion; yet, as is not denied, they are both expiating the guilt of it at the present day, and will continue to do so to the remotest future. That the difference between their nature and ours may be immense, is admitted; it must, however, shrink into nothingness, if we compare either with the divine.

How could the evangelical doctrines of the in-

universe! . . . The most stupendous of these measures would,' it is said, 'be nothing to eternity.' We are then directed to 'think of an infliction of misery protracted through such a period . . . [this misery] at the end of it being not one smallest step nearer a conclusion!' &c. &c.—It ought to be added that this author advocates the milder tenet as a matter of *esoteric* belief only—a presumption, we think, that it had not a very decided hold on his own convictions.

descend below his zero; and what  
then than such a contact of the t  
Scriptures assert? The objectio  
really different from the old  
against the gospel. Is it likely  
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ment of it. To the wonders of Gc  
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us the mind which can adequat  
degree, the† 'ὄντως' of God's love to  
and to that mind alone will we ei  
tion of his displeasure against sin.

A reference to the ordinary an  
life will show much of the discour  
punishment of sin to be declama  
saves one of it

“The sins of earth and time do not, in the eye of reason, merit endless misery.” Surely, we may retort, it can only be for want of reflection that, in sentences like the above, the demerit of a sin is tacitly assumed to depend on the duration of it. In what known society does this standard of criminality obtain? The disproportion between the duration of crimes and punishments, in human jurisprudence, is enormous. A momentary blow will often occasion an imprisonment for life. Another similar blow will incur the forfeiture even of life. The point of agreement in these instances,—the sequence, *i. e.*, of irreparable ruin on a single wrong step,—is of daily illustration in the transactions of life, apart from all judicial procedure. There are virtues, it is well known, of which, if once sacrificed, public opinion allows no second probation. What more common than lasting injury to health from a single breach of morality? or to reputation and prospects from a single breach of trust? Even the indiscretions and follies, which scarcely deserve the name of faults, will often damage interests in a degree which no length of after time can rectify. A simple act of neglect, at a critical juncture, may affect a man's position for life.—

“There is a tide in the affairs of men,  
Which, taken at the flood, leads on to fortune ;  
*Omitted*, all the voyage of their life  
Is bound in shallows and in miseries.”

And the difficulty of extrication, be it observed,



of our own argument, that we  
partisans, on either side, in this  
doctrines of human immortality as  
ishment by no means stand or fall  
have held the latter doctrine with  
others again hold the former with  
As it respects the first class, it must  
a re-production after death opens  
eternity to a soul equally with a  
from death ; as it respects the second  
competent to the same Omnipotent  
nated the bodily life, to terminate,  
spiritual. The immortality, be it remote  
we have been claiming for the soul, is  
but a *natural* immortality. We seek  
case of the soul to form an exception  
that He who can create can also des-  
truction of the soul's actual in-  
aroused on

divine justice another. "Why retreat then," we are tempted to ask, "from this ground in enforcing your position, thus trespassing on the domain of philosophical orthodoxy, as well as of theological?" It would seem not to have occurred to these divines that their restriction of actual immortality, as a privilege, to a class may be attained equally in two ways. Either the natural tendency of the soul to immortality may be disturbed in some cases; or its natural tendency to mortality be overruled in others. Can any friend to the dignity or virtue of the species hesitate which of these views to prefer?

The denial of the soul's natural immortality does not, of necessity, involve the denial of a future state; but it is beyond dispute that these forms of scepticism commonly co-exist. As we have seen, the doctrine of a resurrection is wholly a Scripture mystery. The reception which it met with among the philosophers of Athens will be, for substance, its reception among the merely philosophical of every age. To expect that the rejection of the simply rational tenet will pave the way for it, is to offer to a diseased organism an article of hard digestion in lieu of one incomparably easier. It is a perilous experiment to try. Death, we may be well assured, will soon pass for an eternal sleep to those who are taught to consider it a sleep of the soul at all; the dark abyss of annihilation assume a new reality; man sink daily, in value, to the dimensions of the ephemeral creatures around him;

and the powers of the world to come disappear. The consequences of such an estimate to the temporal happiness of mankind have been painted by the most eloquent of writers ;\* its consequences to their eternal happiness who can calculate ?

\* See Hall's Works, vol. 1, p. 42—47.

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ELECTION, TO BE SPIRITUALLY EATEN,**

**AS**

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**FOR “THE DEADLY POISON” OF THE OLD SERPENT SATAN,  
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**WRITTEN BY**

**EDMUND GREENFIELD,**

**January 12th. 1848.**

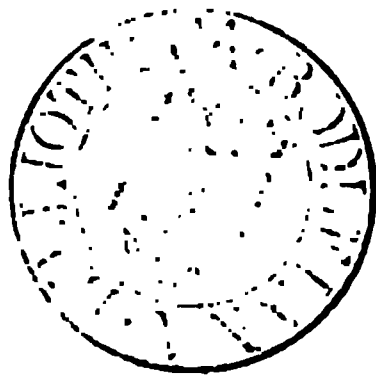
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&c. &c.

---

*My soul desireth the first ripe fruit.*—Micah vii. 1.

NOW ye who are the elect renewed of God, that I sent by him in union with all his pastors, lic witnesses, and messengers, to resist, in his given ngth and undaunted courage, the old serpent, Sa- and his ministers, who deny, as John Stevens for fifty years, “*the eternal divine sonship of is Christ,*” declaring, *sonship* pertains to the *hu-* and *not* to the *divine* nature of Jesus Christ. his books open before me prove. And as two aral sermons sent me from London, preached by e of John Stevens’ confederates also certify. ling grief for my Lord’s sake, seeing and hearing excellent Majesty privately and publicly denied; um to present in this tract, “*an antidote the deadly poison.*” May the Lord God if it is will, enable all his election into whose hands it fall, to find the same a blessing. Amen and en.

ehold ye, that the eternal, divine sonship of Jesus ist, the election’s Husband, in eternity and time, Ransom, Redeemer, and all; See Gen. iii. 15; liv. 5; John i. 1—4; Rev. xxii. 13, 16, 20, 21; been denied in public preaching, and writings, John Stevens, of Meard’s Court, Soho, London; since his death and burial, by certain ministers, rge Murrell, John Foreman, and others in funeral ions testifying, that John Stevens was “*a sound itarian,*” and a preacher of “*the glorious gospel of*



the ever-blessed God." And that he lived, and died in the faith of Abraham. Now having with diligence, read two sermons, I am assured they are *sophisms*! deadly poison; and prove that the preachers, whether *elect* or *reprobate* are so far weakened by John Stevens' deadly poison, that they are in *spiritual delirium*! For observe, I pray you, that the Holy Ghost declares, of all the persons, as *one*, who deny the eternal divine sonship of Jesus Christ, and testify as John Stevens, and his confederacy do, that "sonship pertains to the *human* and *not* to the *divine* nature of Jesus Christ," he is a liar and antichrist. See 1 John ii. 22.

Know ye, oh Zion, that the "First Ripe Fruit," received by God the Father in eternity, was Jesus Christ in all the glories of his Deity, and divine, eternal, sonship for the ransom, and Redeemer, of his human election, when in eternity they were foreviewed sinful, and fallen in Adam, and death passed upon all. See Gen. ii. 17; Rom. v. 12. The eternal divine Son, Jesus Christ in the gift of himself was the "Ripe Fruit" received by the Father, and Holy Ghost, to pacify wrath in the Godhead, by the Son's agreeing in time to be the incarnate God, the last Adam, take on him the iniquity of all the election, fulfil meritoriously all righteousness, suffer, bleed and die, by pouring out his human soul unto death! Isa. liii. 6, 11, so justify the elect, and reconcile the Father to election, make reconciliation for iniquity, and bring everlasting righteousness, Dan. ix. 24. And being buried would arise for our justification, and ascend into glory, the Lord our Righteousness, the living rock, the one only Mediator, the meritorious intercessor, the advocate and propitiation for our sin. The First Ripe Fruit, for all the election. And by the will of the Father and Holy Ghost, all the election when renewed should desire "The First Ripe Fruit," Jesus Christ, the Son in God, Gen. iii. 15; Micah vii. 1; Rev. xxii. 20. First, in order to get at "The First Ripe Fruit," know that God him

self, who is a Spirit, self-existing and self-subsisting eternally three personalites; in his sovereignty by himself, one person, said to one other person, thou art my Son. So the self-existing person of Jesus Christ was begotten a Son, the only begotten Son in God, and the Godhead. Thus was constituted the eternal Father and the eternal Son. And the one other self-existing person, possessing and resting upon the eternal begotten Son, and anointing him, was constituted the eternal Holy Ghost. See the proofs through all the Scriptures, especially in Psalm ii. 7; and Prov. viii. 22. And in that first length of eternity, in vision, the Father and Holy Ghost in determined counsel and fore-knowledge, spake with the Son of all creation and time, and devised the ordinances of the heavens, and fixed bounds for all creation; see ye and know, the Father elected in and with the eternal, begotten, possessed, anointed Son Jesus Christ, out of all the human race, a certain number of sons and daughters, and gave them to the Son for his members and bride, see Psalm cxxxix. 16. and the Son for our head and husband. See Rev. xxi. 9.

And out of all the angels to be created by Jesus Christ the eternal Son in God, the Father elected a certain number of angels and gave to him for his ministering spirits, and so confirmed them in the eternal Son that nothing could move them to leave their first estate. See Heb. i. 14; Psalm ciii. 20; Rev. v. chap. And the human election having grace given by the Father in Christ Jesus the Son, our head and husband in eternity, before the world was. See 2 Tim. i. 9. Behold the Father, Son, and Holy Ghost, one God, the Godhead, recorded his own infinite, relational persons and names in the Book of Life, and then the names of all their relations, the human election, in the same Book of Life. See Psm. cxxxix. 16; Luke x. 20; Phil. iv. 3; Rev. xx. 15.

That glory having passed in the eternal determined counsel and fore-knowledge of the Father, Son, and Holy Ghost, or God and the Father and Christ, "In

no, no, but the image of the invis-  
15. and not the form of man, as  
published in Christendom. We  
glories of the glorious Three-one, th  
in all the beauties of his deity, spi  
all fulness, the manifest King, the  
mortal, was set up by the Father  
over all creation. How can the  
Arians venture to say, that Go  
not be set up! But that he had  
soul set up? The Bible shews God  
Of him the Father said to the Ho  
make him my first-born, higher than  
earth." The Son said, in that glory  
up from everlasting, from the begin  
earth was." Prov. viii. 23. And  
Ghost said, "Thy throne, O God, is  
see Psm. xlv. 6; yes, to the Son, Jesu  
Godhead, the Holy Ghost said, "Thy  
for ever and ever, a sceptre of rig  
sceptre of thy kingdom." Heb. i. 8

And to prove that -

tion of the election and called him Jehovah Adonai, that is, God and a King, God and a Saviour, God and Ruler, God and a Judge; the Messiah, the Pacifier, the Reconciler, Immanuel, the destroyer of the works of the devil, his bruiser, the swallower up of death, the Redeemer of all the election from the lowest hell. The Lord and giver of glory, who in the similitude of his time to be, human form in vision appeared to the antients, and spake to them of his glory, see Gen. xviii. 3; Num. xii. 8; and they knew that He to come God, manifest in the flesh in time, by dying should make an end of sins, that merited the curse, and make reconciliation for iniquity, and bring in everlasting righteousness for the *whole* election Dan. ix. 24.

Behold that Jesus Christ in all the glories of his deity, and eternal, divine sonship who gave himself in eternity as he did in time after his incarnation, in life, and death, a ransom for us, and “a sacrifice to God the Father, for a sweet smelling savour,” Eph. v. 2, was “The First Ripe Fruit.” Yes, yes, and so the eternal Son in God Jesus Christ, was accepted, and all the election in and through him perfect! See Heb. x. 14. When the blessed Saviour Jehovah Adonai, ascended to be glorified in humanity; See Dan. vii. 14; John xvii. 5, 22, 23; 1 Thess. v. 9, 10; Rev. xxii. 16, 17, 21.

Hart says, Jehovah Jesus Christ,

“Perfum’d the throne of God on high,  
And calm’d offended Majesty.”

And thus the Holy Father and Holy Ghost having received the Son, the ransom, “The First Ripe Fruit,” presents him to us, the renewed elect, to eat as the only *antidote* for the deadly poison of a human pre-existing soul-idol of John Stevens, infused by the old serpent Satan, for Jesus Christ. And the Son says, “He that eateth me, even he shall live by me. He that eateth of this bread (or fruit) shall live for ever. John vi. 50, 57, 58.

Therefore although John Stevens through his *fifty years’* ministry in the spirit of error denied the true

Christ Jesus, the eternal Son in God; and so denied the true eternal Father and eternal Holy Ghost, poisoning many people, and corrupting many of God's renewed elect sons and daughters, always corrupting the true ordinances of water baptism and the Lord's supper: as the Holy Ghost proves in all the Scriptures, especially in these words, "We know the Son of God is come, and hath given us an understanding, that we may know him that is true: and we are in him that is true, even in his Son Jesus Christ. This is the true God and eternal life. Little children, keep yourselves from idols, Amen." 1 John v. 20, 21. And I say, that the elect of God among John Stevens' poisoned ones, languishing; shall receive and eat "the First Ripe Fruit," given by God the Father an antidote for deadly poison which I am sent to present unto the mourning wife and family of the departed John Stevens, as to others. May God if it be his pleasure, enable them to receive and eat it for their soul's benefit. And then burn all the writings of John Stevens, as books of curious arts, full of deadly poison, see Acts xix. 18, 19; James iii. 8, and which books, by Satan's permitted power, are now working abomination in Christendom. See Rev. xxi. 27.

Having so far fulfilled my God-given message, as pastor, public witness, and messenger,

I am now to give my readers, the Bible testimony of the faith of the elect and their eating Jesus Christ "The First Ripe Fruit," when renewed, from Adam, Eve, Abel, to Abraham and Sarah, to Moses, the prophets and apostles, and their successors, unto Dr. Gill, Dr. Hawker, myself, and all the living orthodox to the editors of magazines, who being in hopes John Stevens had the gift of life, to repentance, with faith and hope in God the eternal Son, at his last moments to eat him "the First Ripe Fruit;" as an antidote to the deadly poison, see Mark xvi. 18, have written favorably of him! Well, well, if such was

the case, and he was sanctified by the truth, then Jesus Christ is Stevens' perfection.

Yes, Jehovah Adonai, Emmanuel, Jesus Christ have perfected for ever them that are sanctified. See Heb. x. 14. Yes, I say, He, JOD-HE-VAU says, "I am he, that healeth thee," Exod. xv. 26; Ps. ciii. 3. But this healing must be in the soul before it enters heaven, (see Rev. xxi. 27; and xxii. 12, 13, 14, 16) behold ye John Stevenites, the first renewed church upon earth, issues from death, raised up under the apple tree, where the old serpent poisoned them with deadly poison, by doctrines against God the Son, that when they were quickened together in the Son Jesus Christ, by the Father's blessings, and by the sanctification of the Holy Ghost, finding godly sorrow working repentance under the Father's rod, Ps. xciv. 12; they had the gift of faith, hope, and love to Jesus Christ, God the eternal Son, as revealed in these words, "The seed of the woman shall bruise the serpent's head." Take the whole words of the Father, "I will put enmity between thee and the woman, and between thy seed and her seed; it shall bruise thy head, and thou shalt bruise his heel," Gen. iii. 15. And as Christ was revealed in them by the Father, and formed in them by the Holy Ghost, the hope of glory, and manifested to them in the promise, their "First Ripe Fruit," the Father's free gift, they ate him spiritually, in the lamb slain, *his figure*; and so by and in the Holy Ghost, confessing their sins, in and through him, the eternal Son to come in the flesh, in the set time, and praying unto the Father in his name, for pardon and remission of sins, he was to them an *antidote* for the *deadly poison* of the old serpent; and their enmity to God and to his law was slain, and an enmity was put in them to the serpent, so "having the mind of Christ," on whom they fell as the eternal and time Rock, in broken spirits, and contrite hearts, Gen. iii. 15; Luke xx. 18. They in that filial obedience of faith, hope, and love, worshipping the Father, in and

... wrote and preached,  
the imputed righteousness, or imputation  
of Christ, which is the righteousness  
iii. 22.

Neither do they know anything  
forcibly of an application of the  
blood of Christ, or of eating him  
First Ripe Fruit," so as to "the  
whom we have received the atonement  
11. Neither know they how to love  
and are married to Christ, as the  
God, our eternal and true husband  
are made the righteousness of God  
how we are not under the law,  
Neither can such heresiarchs lay down  
doctrinally for a foundation to build  
or declare in love, joy and peace, "and  
through righteousness unto eternal life  
Christ our Lord," Rom v. 21.

Finally, we aver that as the saints  
nation of God the Son, had all the atonement  
had those who received him as "the  
Fruit" in his incarnation, before his  
Emmanuel at Bethlehem. Thus F  
in all the world.

Holy Ghost. See Isa. vii. 14; Matt. i. 20; Jer. xxxi. 22. "And Mary said, My soul doth magnify the Lord, and my spirit hath rejoiced in God my Saviour." Luke i. 46, 47. "The First Ripe Fruit."

And so in the circumcision of God the Son, manifest in the flesh, Simeon fed on him "The First Ripe Fruit," saying in the Holy Ghost, unto the Father, "Lord, now lettest thou thy servant depart in peace, according to thy word; For mine eyes have seen thy salvation: which thou hast prepared before the face of all people, a light to lighten the Gentiles, and the glory of thy people Israel." Luke ii. 28, 29, 30. And so we find after the Lord's ascension into glory, all the saints upon earth knowing him as the Alpha and Omega, the first and the last; "He that liveth and was dead," as himself declares; saying, "Behold I am alive for evermore, Amen, and have the keys of hell and death," Rev. i. 17, 18. All worship the Father, in and through him, the Son, "building up ourselves on our most holy faith," praying in the Holy Ghost; (feed on him "The First Ripe Fruit,") "keep ourselves in the love of God, looking for the mercy of our Lord Jesus Christ, unto eternal life." Jude's Epis. 20, 21 verses. And we find Dr. Gill opposed to John Stevens, and all his confederate pre-existinarian ministerial brethren, declares "*A trinity of persons in God cannot be defended, but on the ground of the proper sonship or filiation of Christ.*" So said Dr. Robert Hawker, with Huntington, and Gadsby, as proved by all the believing orthodox. How then had John Stevens, who *denied* it, the *faith of Abraham*? And how was John Stevens a *sound Trinitarian*? as the funeral sermonizers declare? Beware, O Zion, of his deadly poison! "Little children keep yourselves from idols," 1 John v. 21.

We find that Dr. Robert Hawker, treating of the setting up the pre-existinarian idol, a false Christ, by John Stevens and his confederates, whose sonship they declare pertains to his human nature only, and not his



published the same doctrines  
and Hussey was an orthodox ma  
day, and was rendered a blessing  
to the noted Ann Dutton. My rep  
I have that work of Hussey's, an  
Dutton declared, of blessings receiv  
ministrations; but that blessed, judic  
testified she could not receive all the  
glory man, and so I testify. But I  
the awful lengths of John Stevens,  
istry was taken out of Hussey's boo  
tain erroneous ministers have taken t  
Dr. Crisp's. And yet by closely re  
and Hussey, I believe, although they  
points, they were God's elect, justified  
and their souls are now glorified, and  
in glory. Yet I am to declare their  
were very erroneous and dangerous.  
over, that it ever has been to this day  
high trespass, in and by any minister  
istry from any man's writings. See  
Let every minister, as God command  
bible for a directory. See Psalm c  
verses; and 2 Tim. iii 16 17 18

ness in our God. 1 Thess. ii 2. That Hussey was deluded by Satan in a certain point, not only by falsely condemning Calvin, but by holding and publishing that **Adam** was made in the image of his declared glory-man; so intimating that the Son in God was eternally man. That was and is a lie, for the Holy Ghost declares, that God the Son had no parts of a man until he was incarnate in time, the seed of the woman. Gen. iii. 15. The Word, or eternal Son in God, made flesh, John i. 1 to 14 verse, he having then, and not before, two perfect natures, divine and human, one person, Immanuel. Isa. vii. 14; Jer. xxxi. 22; Matt. i. 23; Luke i. 35; and ii. 7, 11. So he was the second or last Adam. See 1 Cor. xv. 45; Rev. xxii. 16, 21.

We the orthodox therefore, as one united in the spirit of truth now living, as the ancients from Adam to Moses, to Paul, John, and others to Calvin, and to Huntington all testify, that the image in which Adam and Eve was made, was the image of God, that is, righteousness and true holiness, in their bodies, souls and spirits; "So God created man in his own image, in the image of God created he him, male and female created he them." See Gen. i. 27. Thus we find Hussey trusting in his own heart, and by leaning to his own understanding, and being deluded by Satan, to look to a glory-man not revealed in the bible; was fool enough to declare, Prov. xxviii. 26, that God the Son was a glory-man, and that Adam was made in the image of the glory-man. Oh what an awful error and heresy; he might as well have said, God the Son was the fleshly form or image of Eve, for the Holy Ghost declares, who with the Father and Christ, is one God the Godhead; he created them, Adam and Eve, male and female, in the image of God. See Gen. i. 26, 27, 28. In which scripture light we discover Hussey's darkness, and error, which spoil his book. Yet it is evident by the many excellent sentences of truth, respecting the eternal deity and sonship of Jesus Christ; that he contradicted himself and felt he had erred, but God permitted Satan to push him on to

publish his unscriptural notion, and to condemn Calvin and us, who in the unction and anointing of the Holy One, 1 John ii. 20, 27, testify that the image of God in which Adam and Eve were created, was in righteousness and true holiness. Gen. i. 26, 27, 28. And after the sin and fall, they being the two first elect, whilst the imputed righteousness of God the Son, their Redeemer and covenant head, was their justification unto life, and justifying righteousness, Psalm xxxii. 1; Rom. iv. 5, 6; and v. 18, by the sanctification of the Holy Ghost, with the Father's infused life, the grace of life, from the Son's fulness, as a principle of holiness, and the washing of water, and renewing of the Lord God. Gen. iii. 9, 10, 15. They were in a mystical degree, restored to the image of God, and blessed, see Gen. i. 27, 28; Titus iii. 5, 6, 7. that is to righteousness and true holiness. See Eph. iv. 24.

Now in favouring the dust of the learned and bold Hussey, and to prove how he contradicted himself, setting his own recorded truth against his own error, he says, "Christ was God before he was the Word." Hussey meant, that whilst Christ self-existed with the Father and Holy Ghost, one God, the Godhead; he was begotten of the Father, and possessed by the Holy Ghost, and anointed, the Lord's Christ. The holy Child Jesus, in all fulness of communicable life, light, truth, wisdom, power, grace, righteousness, holiness, immortality, and glory. Psm. ii. 7; Prov. viii. 22, 23; Psm. lxxxix. 27; Col. i. 15. Not in the image of, or form of a man; no, no, but "the image of the invisible God, the first-born of every creature;" because in the divine, eternal, only begotten, and possessed, and mystically born and anointed Son in God, Jesus, the Christ, the king eternal, set up in his eternal, glorious, high throne, Psm. civ. 1, 2; Jer. xvii. 12. was the communicative life of all creaturality. See Col. i. 15, 16, 17, 18, 19; Rev. xxii. 16, 17, 21. "Him, says Hussey, the Father in the Trinity pitched *upon*, the Son of *his nature* and *being*, to be in another nature by mediatorial settlement, by constitution; not by fleshly crea-

ion yet, as *afterwards to be*." So writes Hussey. Again he adds, "the glory-man, was the covenant man *in glorious similitude*." Psm. lxxx. 17; Numb. xii. 8; Exod. xxxiii. 11; Gen. xviii. 22, 33. And that manifest similitude of God the Son, Jesus Christ, the appearance of the form of a man, I say both in heaven and earth, visionary, was to assure angels and saints of his future manhood, in union and one with his divine person, the Redeemer, Mediator and all. So we agree with all the above-declared Bible saints, and with Huntingdon and Hawker; see Psm. lxxx. 17; Prov. viii. 22, 23; because the eternal Father by the Holy Ghost, in and through the Son, have declared it, through the old testament, especially to Aaron and Miriam, saying of his appearance to Moses, "the similitude of the Lord shall he behold." Num. xii. 8; Dan. x. 16.

But to say, or write, as John Stevens, and his Satan beluded, poisoned confederate, pre-existinarian ministers say, that the Son of God, was a human soul pre-existing, or as others of them testify, that he had human glorious flesh, created eternally in union with his divine person, or any fleshly parts of a man, before his time incarnation; I say, is awful blasphemy. And as Dr. Hawker said and recorded, it is *the master piece of hell*. But the comfort of the orthodox ministry is, being assured by and in the Holy Ghost, that the election who has, or shall hereafter receive, the pre-existinarian books, and who by the device of the evil spirit, mystically drink their deadly poison, the deadly thing, it shall not hurt them. Mark xvi. 18. No, no, the antidote shall be given by the Holy Spirit, that is, Jesus Christ, the eternal, everlasting Son in God, the propitiation for our sins; to cleanse and to heal them; Psm. ciii. for God, Jesus, our Christ's, blood, cleanseth us from all sin. 1 John i. 7, 9; and ii. 1, 2; Rev. i. 6, 7, 8. He was and he is "The First Ripe Fruit." See Gen. iii. 15, 21; Micah vii. 1; Isa. liii. 6, 10, 11, 12; John vi. 51, 58; Heb. xiii. 8; Rev. i. 17, 18; Rev. xxii. 20, 21. May this my tract, presenting "The First Ripe Fruit," be rendered by the Holy One,

a blessing for his chosen people extensively, and for an antidote, especially for such of his chosen, as have drunk the deadly poison of the pre-existitarian John Stevens and his confederates, or through the funeral sermonizers. Amen.

Finally, I say, in union with my orthodox ministerial brethren, if any living pre-existitarians are offended and condemn "The First Ripe Fruit," or this tract we challenge them to a controversy. And taking the whole Scriptures for our directory in the power and counsel of the Holy One, we will prove that pre-existitarians of the classes afore-said, have been, now are, and will be, "after the working of Satan, with power and signs, and lying wonders;" 2 Thess. ii. 9; issuing deadly poison, working abomination, and making a lie. Rev. xxi. 27. Adding to God's word. Prov. xxx. 6. To whom Jesus Christ, in the sovereignty of his eternal, everlasting Deity and Sonship says, "If ye believe not that I am He, ye shall die in your sins." John viii. 24. And his love constrains us to say, "Thy will be done." Amen.

"Glory and eternal laud,  
Be to our incarnate God."

"Alleluia: for the Lord God Omnipotent reigneth."  
Rev. xix. 6.

FINIS.

**THE MISTAKE CORRECTED:**

**A**

**LETTER**

**TO THE**

**REV. DR. CHAMPNEYS,**

**HEAD MASTER OF THE COLLEGIATE SCHOOL, GLASGOW.**

**BY**

**CHARLES B. GRIBBLE, M.A.**

**INCUMBENT OF ST PAUL'S, WHITECHAPEL, AND CHAPLAIN TO THE SAILORS' HOME,  
LATE CO-MINISTER OF ST JUDE'S, GLASGOW.**

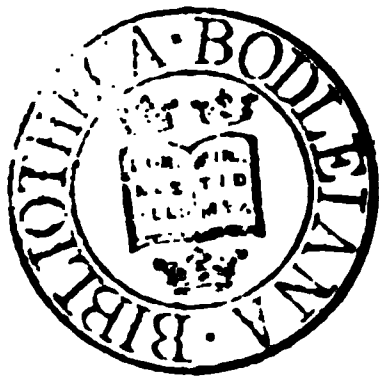
**THE PROFITS WILL BE DEVOTED TO THE GLASGOW ROYAL INFIRMARY.**

**GLASGOW: DAVID BRYCE.**

**W. KENNEDY, EDINBURGH; HAMILTON, ADAMS & CO., LONDON.**

**MDCCCLXVIII.**

**6 SIXPENCE.**



# LETTER.

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43, WELL CLOSE SQUARE, Jan. 5, 1848.

REV. AND DEAR SIR,

An influential member of St Jude's English Episcopal Chapel, in Glasgow, has just sent me a pamphlet, which bears your name as its author. The motive which induced you to write it is evidently so amiable and correct, and the spirit in which it is written so unexceptionable, that I have pleasure in replying to it; more especially as you are not a stranger to me, in consequence of my recent residence in Glasgow, during which my acquaintance with you was the cause of no other regret than what arose from its short duration and casual character. This is not the first time when we have discussed the subject on which I now write to you; and I am quite sure that neither you nor I will allow the frank, easy, and peaceable tone of that conversation to be marred by anything which either may say or write in the continuance of the controversy.

Your pamphlet contains the record of your endeavour to bring the managers of St Jude's Chapel to a reconciliation with the Scottish Episcopal Church. Your amiable intention seems, however, to have been frustrated by the disinclination of the parties addressed; and however I applaud the kindly motive which urged you to make the attempt, I admire the steadiness of mind which induced them to decline the overture.

Before I enter upon the subject of this letter, it is proper for me to remind you that I have not provoked this discussion. I am drawn into it by a paragraph in your pamphlet, which introduces my name in connection, first, with the Bishop of London, and, secondly, with my recent charge in Glasgow. The sentence is as follows :—



“The bishop’s recent resolution, I hear, not to admit Mr Gribble into his diocese, on account of the false position he occupied in Glasgow, gives a very distinct proof of his opinion.”— (p. 13.)

It is quite true that the Bishop of London raised an objection to my entering his diocese, entirely on the ground of my having held a charge in Scotland apart from the Scottish bishops. He went so far as to state, that he could not receive my nomination to the church which I now serve. His lordship also refused my testimonials, because they were not countersigned by a Scottish bishop. I then presented to him a testimonial, countersigned by the Bishop of Hereford, (the present Archbishop of York) to which his lordship objected, because it was not in accordance with the requirements of the law, which directs that a clergyman applying for a license shall bring testimonials countersigned by the bishop of the last diocese in which he served. It became, then, my duty to remind his lordship that I was in strict accordance with law, because the diocese of Hereford was the last I was in, since, during the intervening time, while officiating in Scotland, I was in no diocese whatever, inasmuch as there are no dioceses in Scotland; and for that interval I was prepared to produce such testimonials as were agreeable to the literal requirements of the law. His lordship then stopt the conversation, by requesting me to write him a statement of the circumstances under which I went to Scotland.

This request was of course complied with; and in my letter I informed his lordship that, upon my asking the Bishop of Hereford for testimonials, previous to my entering on my charge in Glasgow, I was careful to inform that prelate that I had sent him a testimonial, signed, as usual, by three beneficed English clergymen, *but not addressed to any bishop, for the reason that I was going to Glasgow, where I should officiate in an English chapel, apart from the Scottish Episcopal Church, and under no bishop*—that I felt it due to the Bishop of Hereford to state this, believing that if, in his lordship’s opinion, I was about to commit *an act which was irreconcilable with my duty as an English*

clergyman, he would at least admonish me : that my testimonial was sent to me duly countersigned by the Bishop of Hereford, and without the least intimation from his lordship of there being any impropriety in the act.

In my letter to the Bishop of London I further defended and maintained the position of the English clergy, whom you have pronounced to be in a false position. Not one excuse or apology could I make for what appeared to me then, as it seems to me still, to be a manifest Christian duty to defend and support them.

But this point I laid stress upon, and I remember to have urged it upon you on the occasion of our meeting in Glasgow, viz., the incompetence, in my opinion, of any honest man, (pardon the expression) who has taken the oaths of adherence to the English liturgy, and "*none other*,"\* and still calls himself an English clergyman, lawfully to unite himself to another church which requires him to acknowledge another communion service to be of primary authority, more especially since attention has been so strongly and recently awakened to its real character.

My letter also stated to his lordship that, on my arriving in Scotland, I called on Bishop Russell, who has the oversight of the Scottish chapels in the district in which you now reside, and requested him to inform me of the grounds on which he had issued a prohibition to all episcopalians against holding any communion with the Rev. C. P. Miles, of St Jude's, the minister whom I had come to assist, and that the right reverend gentleman had no reasons of any real importance or legal authority to adduce.

Now, it is not for me to say what effect was produced on the mind of the Bishop of London by my arguments. Whether they had the effect of changing his lordship's opinion on the matter I cannot say; for I have no ground on which to form any opinion; but that they were so conclusive as to convince his lordship of the impossibility of establishing any charge of irregularity or impropriety for the act of officiating in Scotland apart from the Scottish bishops, is sufficiently plain from the terms of

\* See the 36th Canon, Art. 2.

the license which now lies before me, duly signed and sealed by the Bishop of London.

I transcribe it, not of course for your information, as you are familiar with the form, but for that of other friends, who may do me the favour to read this Letter:—

“ Charles James, by Divine permission, Bishop of London, to our beloved in Christ, Charles Besly Gribble, Clerk, M.A., greeting. We do by these presents give and grant to you (in whose fidelity, morals, learning, sound doctrine, and diligence, we do fully confide) our license and authority to perform the office of minister of the new church or chapel of St Paul, in Dock Street, in the parish of St Mary, Whitechapel, in the county of Middlesex, within our diocese and jurisdiction, lately erected and consecrated, to which you are now nominated by the Right Honourable Lord Henry Cholmondely, the Honourable Francis Maule, John Labouchere, Esq., Frederic Madan, Esq., and Charles James Bevan, Esq., the true and undoubted patrons thereof, as it is asserted; in preaching the Word of God, and in reading the common prayers, and performing all other ecclesiastical duties belonging to the said office, according to the form prescribed in the book of Common Prayer, made and published by authority of Parliament, and the canons and constitutions in that behalf lawfully established and promulgated, and not otherwise or in any other manner (you having first before our commissary subscribed the articles and taken the oaths, and made and submitted the declaration which in this case are required by law to be taken, made, and subscribed;) and we do by these presents authorise you to receive and enjoy all and singular stipends, profits, and advantages whatsoever belonging to the said office. In witness whereof, we have caused our seal, (which we use in this case) to be hereto affixed. Dated the twenty-second day of October, in the year of our Lord, one thousand eight hundred and forty-seven, and in the twentieth year of our translation.

“ C. J. London.

“ JNO. SHEPHERD,

“ *D. Registrar.*”

*It must now be evident, my dear Sir, that I have established*

one point, viz., that if, as you say, and as is probable enough, the Bishop of London did form a resolution not to admit me into his diocese, on account of what you term the false position I held in Glasgow, his lordship changed that resolution, and admitted me without any retractation or apology from me.

Whatever weight, therefore, your argument might have gained from the resolution of the bishop, had he acted upon it, is lost to you by the fact of his lordship's change of purpose; and any little weight which remains to it, from the fact of the bishop having once given to your side of the argument the advantage of his favourable opinion, is, I think, well nigh lost to you, from the circumstance of his lordship finding it either impossible or inexpedient to act upon it.

It is time now to dismiss this part of the subject, to make way for the sequel. You call the position which I held in Glasgow a false one. I quite understand the meaning of the expression. It was in your judgment false, in relation to ecclesiastical order.

I request your patient attention to my reply. Ecclesiastical order is to be considered under two aspects: first, in its relation to the whole collective church of Christ; and, secondly, to that particular part of it established by law in England and Ireland, of which you and I are ministers.

We, as episcopalian clergymen, hold that episcopacy has always been the proper order of ecclesiastical government, from the age of the apostles to the present time. Possibly you may also hold the opinion that this form of government is only legitimate when exercised by those who have been in the unbroken catena of apostolical succession, kept in all its links by the imposition of hands. At all events, the party in Scotland whose cause you have espoused are of that opinion. But I am not of that opinion. I repudiate the doctrine that the imposition of hands either of necessity makes a bishop, or of necessity preserves the church in her integrity. If a man be not called by the Spirit of God to the office of bishop, and if he be not made a bishop by the power of God upon his heart and understanding,

he is not a shepherd of the church of Christ, but a wolf in the clothing of the sheep; nor can the imposition of hands secure the church in her integrity, though it were possible, which it is not, to prove an unbroken chain from the apostles. The Church of Rome, in which, if in any church, the regular imposition of hands is to be found, has, by her apostacy, proved that external order, such as it is, has no power over the internal motives and dispositions of sinful and worldly men.

And, on the other hand, it is my belief that, even where there is no imposition of hands, and even no episcopacy, yet a body of men may exist among whom Christ may be present; and if His presence does not constitute them a church, it is difficult to prove that any external rite can make them so.

In other words, though episcopacy, regularly derived, be the general rule, yet there may be circumstances which make the exception legitimate. And it may so happen that the inward life and the external order of the church may be separated; in which case I choose the former, and either patiently wait for, or diligently endeavour to regain the other.

If, therefore, the Scotch Episcopal Church were thoroughly correct in her apostolical succession, I should feel perfectly happy in having nothing to do with her, although my position might be anomalous and inconvenient; for I am persuaded of her unsoundness in doctrine, vitality, and practice; and I must freely confess, that in a system so defunct, the mere existence of external ceremonial and profession is to me offensive, and, when forced upon the community, as this has been, nauseating.

I would never, therefore, associate myself with the Scottish Episcopal Church. I am satisfied that her apostolical succession (could it be proved) has neither cured her of a strong sympathy with Rome, nor kept her free from some of the most dangerous errors of that communion. I have read, seen, and heard enough to satisfy me that she has retained the notions of the ill-used, but infatuated Archbishop Laud, of the two Charles's, and of James the Second, to whose dynasty she passionately adhered, with a zeal which is often found in con-

junction with great error. And further, I have seen enough in a charge of Bishop Russell, the bishop to whom I must have submitted, had I joined the Scottish Episcopal Church, to convince me that the said church, holding all along the objectionable views and purposes of the high church party, only kept them in abeyance until the southern party gained strength in Oxford, and proceeded to disseminate in the south the principles which have called forth the concealed but ready spirit of her northern sister.

If, therefore, I justify myself in a separation from her even in apostolical succession, what shall be said when this erroneous system has not even apostolical succession to bind it together? A flaw is to be found in the pedigree of that church, and she has not a just claim to inherit the portion of the Lord's heritage; she is unable to produce the title-deeds of her right, even on her own assumption, and she cannot claim as her portion any authority over the people of God.\*

I have long made up my mind to the determination of keeping as clear as possible from whatever may darken the understanding by error, or fetter freedom of spirit by superstition and bigotry; and upon these grounds I justify myself in officiating in Scotland apart from your church, and consequently I must resist your assertion that the position which I occupied was false.

But the second aspect under which your judgment of my position is to be viewed, is the relation in which you and I stand to the United Church of England and Ireland. When we were ordained, each solemnly subscribed the 2d Article of the 36th Canon, which is as follows:—

That the book of common prayer, and of ordering of bishops, priests, and deacons, containeth in it nothing contrary to the word of God, and that it may lawfully so be used; and I myself will use the form in the said book prescribed in public prayer, and *administration of the sacraments, and none other.*

\* See the Appendix to a Report of a Deputation of English Clergymen to the English Bishops.

This we subscribed twice. Now, my dear Sir, mark the words, "*I will use the form in the said book prescribed, in public prayer, and administration of the sacrament, and none other.*"

But is this declaration, which bound us by so solemn an obligation, respected by the Scottish Episcopal Church; or is the conscience of an English clergyman considered, when he unites himself to that communion? By no means.

If I, as an English clergyman, had joined that church, I must have subscribed to a Canon which declares that the Scottish communion office is of primary authority in that church; that is, my whole moral system would be torn asunder by two contrary obligations. I should be bound already by one which forbids my using any other form in the administration of the sacrament, and, without any release from it, I should be fast bound by a second, which compels me to acknowledge and prefer another.

But it may be said, there is no material difference between the services. Suppose that were granted: Is it not another; are not you and I forbidden to use *any other*? But there is an essential difference between them. If there were not, why does not the Scottish Episcopal Church give it up, and, as she professes communion with us, take our service? If there were no difference, why does the voice of the Tractarian call to you across the Cheviots, and say, "Hold fast your communion office with your life?"

There is a difference, my dear Sir, and it is in this that the office of that church comes so near to the Romish doctrine of transubstantiation as to render it hard for the most ingenious sophistry to show the distinction: we of the Church of England reject that doctrine.

But you will say, perhaps, that an English clergyman is not obliged to use it. Suppose, then, it were possible for an English clergyman, uniting himself to the Scottish Episcopal Church, to get comfortably over the difficulty of acknowledging its communion office to be of primary authority, while he is under solemn obligation to use no other than the English, and suppose he reconcile himself to this by the persuasion that he is not

obliged to use it; this clergyman, we will suppose, is in due time elected bishop. Is he not obliged to use it, then, or subject himself to its use? Can he be a bishop without it? Your **Canons** would prevent him.

But I am able to prove that an English clergyman, though given to understand by his bishop that he would be exempt from the use of that office, was afterwards censured for not complying with it. I can also prove that an English clergyman was unable to attend the consecration of a chapel where he was expected to meet his bishop, because the use of the objectionable office was determined; and my friend, rather than act what he believed to be a falsehood, absented himself from the ceremony.

And it is beyond all controversy that every effort has been made of late years to force this strife-producing instrument upon the churches. I know an instance of a congregation being tampered with, and promised pecuniary aid if they would get this office introduced—and that without the knowledge of the clergyman.

The case of the Rev. C. P. Miles, to whose change of sentiment in relation to the Scotch Communion Office you refer, is also in point.

That gentleman came to St Jude's, then in communion with the Scotch Episcopal Church, with every wish to judge forbearingly of the Scotch Communion Office. Under the impression that it was well nigh obsolete—misled by the assurance of his bishop, that it would either soon lose its existence or its authority—believing also, that the adoption of our articles by the Scotch Episcopal Church was sincere—he concluded that the office was, during its brief existence, to be interpreted by the articles of his own church. But when experience and observation compelled him to give the same weight to his judgment which he had previously attached to his charity, it became painfully evident to him that this erroneous office was not intended by his new associates to be adjusted, rectified, and purged, by the application of purer doctrines; and that the obsolete form, which he imagined to be breathing its last sigh, was really a living thing, drawn



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We bind ourselves to no bishops abs-  
give our canonical obedience to bishops  
must act within the defined limits of law  
as administrators of law, equally binding  
we promise submission.

Who shall say, the law which binds  
exclusive use of the formularies of the I  
dispensed with in Rome:-

On such grounds, were they admissible, I might claim the privilege, if I felt so disposed, to pass over to Syria, and there, under the bishops of the eastern churches, dispense with a little more of the English liturgy. We owe allegiance to the English Church for her distinctive character as a PROTESTING CHURCH, in whose formularies there is a studied and able expression of truth, marked with the utmost particularity and care, in order to meet and obviate the numerous errors with which time, heresy, and superstition have encumbered the truth which has been revealed to us in the word of God. Among those errors, transubstantiation is the leading one against which our communion service is a preservative; and shall I, for the real or imaginary advantage of a foreign episcopate, give up the truth of my own service, and adopt the error of another?

There is no difficulty, however, in putting our finger at once upon the mainspring of this false argument. It is here: Opinions, founded on erroneous views, and destructive of the peculiar character of the English Church, have of late years been rife amongst us, to the effect, that episcopacy is everything; so important, indeed, that to be in the imaginary line of the succession, it is permissible to recognise the Eastern and the Scotch Episcopal Churches with all their errors, and to submit to their bishops, at the expense of the surrender of our own distinctive principles.

And I am aware that, from the strength of the passion for this doctrine, neither a defective succession in the Scotch Episcopal Church, nor the perverted course by which it has reached her, are regarded. On the contrary, that perversion is to many its recommendation. It came through the non-juring bishops, and its present existence is derived from men who loved not the happy evolution of 1688, nor the protestant dynasty which succeeded the family of the Stuarts.

Thus are we dragged back to darkness and bigotry; and by such ecclesiastical counsellors and rulers we are threatened with the undoing of what was once done so well—of that which, but for the faithlessness of professed protestants of the Church of

England, would, under the divine blessing, have long since produced extensive and beneficial results.

To minister, then, in the position which I held in Glasgow, apart from the Scottish Episcopal Church, was, I believe, but an act of fidelity to my own, and on these grounds, again I must repeat that it was not a false position.

Allow me now to take other grounds, and present to you the proof of its being a true position, when viewed under another aspect—that of statute law.

I am well aware that when we appeal to this authority the charge of Erastianism is laid against us. This has been urged by your present ecclesiastical superior; and I have heard the same from a Scotch episcopal clergyman, in a sermon preached before his bishop, and afterwards commended by him as sound and worthy of attention.

Indeed, it is now notorious that the high church party, whose principles your adopted church approves, is impatient of law, and aims at separation from the state; in proof of which I quote a passage from the letter of the Prime Minister to the Bedford clergy:—

“Let us not mistake our position. The church is not in that easy security of the last century, which gave birth to so much negligence—to so much abuse of her wealth, to such a perilous apathy. The Church of Rome on the one side, with abundant knowledge, with imposing authority, seduces many to her communion. The right of private judgment is by many avoided as a dangerous snare; the duty of private judgment is thrown off by many more as too heavy a burden. On the other side the Protestant dissenters assail the Church Establishment as an engine for fettering the conscience, and taxing the property of the subject. Novelties have their charm; the High Churchman and the Independent speak alike of separating church and state.”

This view I believe to be as just as the expression of it is manly and fearless.

No wonder, then, when arguing with your friends, we find,

on our appealing to the authority of the legislature, an unwillingness, in those who desire the separation, to admit the force of the argument. They cannot attach weight to an authority which they wish to abandon or subdue.

But I have no such desire; and therefore I remind you that the Act of Parliament 10th Queen Anne, which protects St Jude's and her ministers in the unmolested exercise of her privilege as an English chapel, remains in force, and every attempt on the part of the Scottish bishops or their clergy to disturb the congregation worshipping in that chapel is contrary to law.

But I am also aware that the same party which at one time repudiates the authority of the law, avails itself at another of all it can gather from the Act of Victoria, which allows the clergy of the Scottish Episcopal Church to officiate, under certain restrictions, in English pulpits. They maintain (when the argument seems suitable), that by that act of the legislature the Church of England is in communion with the Scottish Episcopal Church. But there is nothing whatever in that act which can warrant the assertion. There is no mention made either of union or communion between them. Not one clause (whether the act be read naturally or non-naturally) which intimates that the English clergy are to submit in Scotland to the bishops in that country. On the contrary, it is to me a matter of amazement how an honest mind can form any other opinion on the subject than this:—*A certain small body of ecclesiastics in Scotland, which had once been under suspicion and many disabilities in consequence of the disloyalty of their predecessors, are relieved from those disabilities and declared free from suspicion by the act of 1792. And by the act of Victoria, in consequence of this altered condition, they are no longer prohibited from officiating in English pulpits, but are permitted, on leave being asked and given, to minister for two Sundays in England.* Can this be called communion? But the act goes farther, and implies that there is no communion, for it denies to clergymen ordained by Scottish bishops the privilege of holding a cure of souls in England.

in connection with  
reign of George II.? If so, pray c  
titled to make the request, from the judg  
on my former position,) pray explain by  
has reached the conclusion that the chui  
with each other.

But I am prepared to admit, that in th  
Scottish Episcopal Church, as a body gave  
the duty of every English clergyman to  
unite with them, but upon one important  
that he violate neither law, liturgy, the obl  
tion, nor his conscience.

This was my own feeling ; for, previous  
Jude's, the pastoral charge of the Scottish  
Greenock was offered to me, and that w  
destination ; but during the time which int  
first proposal and the final offer, my mind ha  
convinced of the objectionable character of th  
Church, that upon the offer being made, I f  
form the managers of that chapel of my  
those English clergymen who had seceded

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illegal. I saw a man, Sir William Dunbar, of unexceptionable character, of holy life and conversation, of high gentlemanly feeling, and of lowly meekness, treated, literally, as a heathen. This act of oppression, performed in a style which, among men of the world in any public service, would never be tolerated, was perpetrated by the chief bishop of the church, *at the instigation of his clergy*, and when accomplished, it received the sanction of the other bishops.

Though professedly a Christian church, and, therefore, one would suppose, under the just and gentle sway of the Saviour, its rulers (as it seemed to me) discarded every principle of justice, (according to my view of justice,) and acted with an arbitrary power which is nowhere admissible among Englishmen or Scotchmen, except under martial law. Can it then be supposed, that with the recollection in my mind of what history relates of the ecclesiastical tyranny of the priesthood in the reign of the unfortunate and misguided Stuarts, I should not pause when I saw the descendants and admirers of that priesthood acting on the same principle, and decide on having no fellowship with a body whose principles and practices are so dangerous?

I use the word dangerous advisedly; the danger consists in the disturbance and vexation which their conduct occasioned to many excellent persons, and in the mischief which is likely to ensue to religion, and to our own principles of church government.

Further than this, I have no fear. Our constitution is too well settled, and the principles of religious liberty too firmly fixed, to admit of any repetition of the outrages which bigotry and intolerance once committed in England and Scotland. I believe there is no more real ground for fearing that an exaggerated measure of Episcopal tyranny will again vex Great Britain, than that Presbyterianism will again, with success, oppose the Sovereign, or Independency follow the unhappy example of Cromwell and his associates. But the absence of such apprehension would not justify me, in my humble office and individual capacity, in submitting to the presumptuous attempts.

... that the period which, from  
allured them to the experiment, troubled  
in the churches, is nevertheless the course  
which will be marked in the future history  
moderation, order, and religious liberty.

In your pamphlet there are expressions  
which produce a result the very opposite to that  
it is evident that you wish for union.  
written, as well as from that which has been  
it must appear that our views, in which I  
those of the congregation of St Jude's,  
admit of such union as that which you  
But you will only make the divergence wider  
authority of *our* ministrations, and the validity  
as a church. You assume that without a bishop  
church, and that without confirmation the  
ance at the Lord's table. Are you aware  
villages in England have no episcopal jurisdiction  
clergy and parishioners are undoubtedly members  
of England? Where are the bishops of  
chaplains? In the Admiralty and the Navy

nature, of a healthy character: English in its derivation, and English in its mode of administration; failing which, the anomaly had better remain as it is.

And as to confirmation:—What will you say of the converts in Sierra Leone, who cannot have confirmation because they have no bishop? Is their attendance at the table of our Lord eccentric or unlawful on that account? Our English church enjoins indeed that “There shall none be admitted to the holy communion until such time as he be confirmed.” This would be decisive as a matter of rubrical objection, if the rubric went no farther; but you will remember that it is added—“or, be *ready* and desirous to be confirmed;”—which, of course, means that he who is ready and desirous to be confirmed is fully entitled to communicate. When, therefore, no bishop of our church is in the way to confirm, his absence is not to deprive the young believer of the privilege of approaching the table of the Lord. Nor has it done so at St Jude’s; for it has often been our privilege to receive young persons to that beautiful and edifying communion, although they may not have received external confirmation. We have endeavoured to impress upon them the fact that the confirmation of their souls in the faith of Christ, by the influence of the Holy Spirit, is the essential thing, and that it is sufficient to justify their attendance at the Lord’s table. As yet no bishop of our church has ventured to encounter the storm which would be raised by those gentlemen who, in their opposition to Dr Hampden, have just been baffled in their attempts to set justice and authority at defiance; but when the courage of our more tranquil prelates shall rise to the level of their faith and right judgment, and propel one or more to visit the scattered sheep in the mountains, it will be found that many of our younger members who now decline the offer of a foreign jurisdiction will then be both “*ready* and desirous” to be confirmed by their lawful bishops.

As you have kindly endeavoured to effect an union between parties which are not agreed or likely to agree, allow me in the same spirit to suggest, that the most probable mode of accomplish-



to the English Church will be best ev  
adopting our liturgy and mode of ac  
then believe that they allow not th  
who deceived us at Laurencekirk; and  
the consummation of the union.

But it is time to conclude; and th  
us, notwithstanding our different views  
faulty as each system may be in the estir  
are undoubtedly in either, as in Rome  
the Lord Jesus in sincerity, and sigh of  
hour when controversy shall cease, the  
proud, and petulant natures be laid a  
in Christ Jesus, redeemed out of every  
*system*, be presented faultless through his  
his righteousness for ever.

I remain,

Rev. and dear Sir,

Your faithful bro

CHARLI

# MARRIAGE

WITH A DECEASED WIFE'S SISTER

REPUGNANT TO CHRISTIAN FEELING,

AND CONTRARY TO CHRISTIAN PRACTICE.

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BY THE REV. PHILIP HALE, B.A.

OF ST. JOHN'S COLLEGE, CAMBRIDGE,

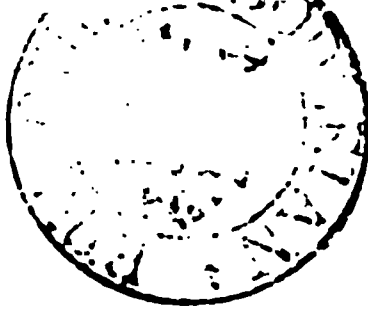
*Head Master of Archbishop Tenison's Grammar-School, and Curator of the  
Library, St. Martin-in-the-Fields.*

LONDON :

JOHN HENRY PARKER, 377 STRAND.

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1848.



“ O man, do not make their aunt the stepmothe  
“ she who ought to cherish them in the place of a n  
“ them with implacable envy.”— ST. BASIL, *Epist. 1*

# MARRIAGE

WITH A DECEASED WIFE'S SISTER,

8c. 8c.

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THERE are some subjects on which it is not necessary to make laws. Custom is superior to legislation, and feeling superior to both. Customs grow out of feelings, and feelings are strong in proportion as they are natural or religious. Laws are required, not so much to direct the customs as to exhibit and give a sanction to a prevailing idea. When the law says, "Thou shalt not steal," independently of the imperative element, which is necessary at all times to constitute a statute, there is an appeal to the feeling of honesty; and where there is no uniform conviction that integrity is an essential qualification of human society, the law is deprived of half its force; is received only to be evaded, where disguise is possible; and is promulgated only to be enforced, where the offender can be detected. The voice of those who are affected by the law is usually respected by those who frame it, and in enlightened states it rarely happens that

trained under holy discipline,  
condition, the lawgiver does  
reverently to heed public opin  
ment and taste are valuable  
results of well-informed and  
are spiritual admonitions, and  
and in the face of innovatio  
them is often the shield of na  
quenches the "fiery darts" of li

It is not necessary, for in  
law respecting burial. The  
out of feeling; the feeling is  
ciple; the principle, a belief  
cles of the Christian faith. V  
soul is immortal; the body, al  
to be raised in mysterious ide  
gion prompts the reverend disp  
of believers, and affection is a  
the rites of sepulture. No law  
ian sentiment is safely left

The question,—May a man marry his deceased wife's sister? should be met on this ground. Does it accord with Christian principles? Is it consonant with Christian feeling? Will it lower Christian refinement? I shall hereafter adduce the practice and opinion of the Church, but am anxious, first, to give prominence to the argument against the proposed innovation, derived from its discordance with the tone of Christian morals. I am not anxious to foster a new feeling of fastidious spirituality; let us take our stand upon ground which has been occupied by a long train of feeling opposed to the contemplated change. There is an existing shrinking from the new connexion which is to be allowable: holy associations tremble at the idea; and we ask, Are these to be discouraged by legislation? Is the sneer of the modern senator to mock feelings which have been cherished under the wings of the ancient Church, and which are guarded with affectionate care in English homes?

We must ask, What is marriage? If it be a simple civil rite, a matter of seals, and witnesses, and parchment, the work of the registrar; if it be the union of two lives which scarcely makes one citizen; and if its chief results are to be calculated in statistical tables, then indeed the sister of the wife has no relation to the husband, and is not a sister, even in law. The member of a firm allows not that his partner's brothers have any claim upon him. He has consented to a legal union of capital and skill to beget wealth, but he has no partner-

no more twain but one flesh,'  
of two members of the Saviour  
shall be venturesome, even to  
affirm that no spiritual connexion  
wife's relations. It is no possible  
solemn truth, that,—

“ 'Tis He who clasps the man  
And fits the spousal ring

and they who acknowledge this  
believe that a contract, made un-  
differently nothing from a civil com-  
wife are really one, then verily the  
brother of the wife's sister. If  
the first you cannot escape the second  
disguises as discreditable to reason  
to a profession of churchmanship  
has been stated by St. Basil  
Diodorus, in which he fully disc-  
“The sister passes into affini-  
“the same”

The doctrine of spiritual relationship, we are aware, has been carried much further, as may be seen in the pages of Bingham.\* Spiritual relationship contracted by marriage may well be allowed without involving the difficulty started by that writer, when, having informed us that the canon law forbade marriage between the baptiser and the baptised, the catechiser and the catechumen, he adds, “The popes, with the same reason, might have used their authority to have prohibited all Christians from marrying one with another, because by baptism and many other ties they are more undoubtedly spiritual brethren.”† For, as all are brethren by nature, yet are allowed to form conjugal alliances except within the limits of immediate cognation, so, in spiritual kindred, there may be ample room for the exercise of the affections, without touching the closer degrees of affinity, which are sacred. The matrimonial union surpasses all other ties in the fact that it is both spiritual and natural, ecclesiastical and civil, destroying the separate existence of the woman and identifying her with her husband. But although the wife’s separate existence has been lost, the sister’s still remains; it remains in her coverture, a condition which nature and the Church have instituted, and her original relations are so far from being destroyed

γυναῖκας ἡ ἀδελφὴ πρὸς τὴν τοῦ ἀνδρὸς οἰκειότητα μεταβαίνει.—BASILI  
EPISTOLÆ, cxcvii.

\* Vol. vi. p. 233, edit. 1835.

† Ibid. p. 234.



Legum:—“(1) Ut qui  
“ ‘untur eosdem sciamus fœmin  
“ ‘ribus semper proportionum e  
“ ‘gradibus: (2) Ut vir ex uxor  
“ ‘inter se carnem habere existin  
“ ‘quisque gradu consanguinitat  
“ ‘tingit, eodem ejus uxorem con  
“ ‘gradu; quod etiam in contraria  
“ ‘ratione valet.” ’ \* He adds—

“ Upon the foregoing rule, fro  
“ son (which we also find to be ac  
“ laid down by the books of commo  
“ prohibition against marrying a wi  
“ I cannot better explain than in  
“ Bishop Jewell, in his printed le  
“ point:—‘Albeit, I be not forb  
“ ‘words to marry my wife’s sister,  
“ ‘den so to do by other words, whi  
“ ‘are plain enough. For when Ge  
“ ‘I shall not marry my brother’s  
“ ‘directly’ ”

“ ‘ my wife’s sister. For between one man and  
 “ ‘ two sisters, and one woman and two brothers,  
 “ ‘ is like analogy or proportion.’ Accordingly, in  
 “ the Canons of 1571, where the dissolution of all  
 “ marriages within the Levitical degrees is directed,  
 “ this case is especially enforced. ‘ Maxime vero,  
 “ ‘ si quis, priore uxore demortuâ, ejus sororem  
 “ ‘ duxerit, hic enim gradus communi doctorum  
 “ ‘ virorum consensu et judicio putatur in Levitico  
 “ ‘ prohiberi.’ ” \*

It is evident, therefore, that a close relationship  
 between the husband and sister-in-law is acknow-  
 ledged by the ancient and existing constitution of  
 English society. It is useless to refer us to the  
 primitive condition of man, and infer, from the fact  
 that the first conjugal union took place within the  
 fraternal relation, the abstract purity of such con-  
 nexions. “ By making at first but one pair, and  
 “ commanding them to multiply, so that all man-  
 “ kind might descend from them, it became abso-  
 “ lutely necessary that the next marriage should be  
 “ between brother and sister, and that by the sove-  
 “ reign and righteous will of God. Had there  
 “ been any impurity in such marriages, we may  
 “ be certain that infinite Power, directed by un-  
 “ erring wisdom and goodness, would never have  
 “ instituted marriage at first, and, by the original  
 “ constitution of the human race, have made mar-  
 “ riage between brother and sister necessary, when

\* See Appendix A.

are not competent judges. We  
the effects of the fall. The alt  
the subject changes the character  
when he is answerable for the c  
sponsible for the working of the  
Paul's assertion should teach us :  
an argument incautiously. " Th  
" which was ordained to life I f  
" death." †

But granting that marriages  
kindred were tolerated under the c  
are we to attach no weight to the  
have grown up under Gospel teachi  
tional light and purity of Christianit  
ideas which did not flourish under  
not the shrinking from such alliances  
ians feel, be a natural result of refi  
and a due appreciation of the real  
mysteries? Is not the delicacy of  
equal weight with the practice of  
in the temple? —

leas of benevolence and freedom, in presence of which the practice of slavery is untenable; yet many a stout argument in its favour might be drawn from the pages of Moses. The seeds of all that "is lovely and of good report" are wrapped up in the doctrines of the Gospel; their fruit is to be found in the sentiments of the Church, and amongst these, the fairest to the eye, the sweetest to the taste, and the healthiest to the body politic, is the delicacy of feeling which prohibits conjugal union within close degrees of affinity.

Taking it for granted that the husband becomes the brother in his identity with the wife, proceed to ask, — Does this brotherhood drop into the grave of the deceased wife? Death separates the external relation, does it destroy the spiritual? Can it triumph over the union of two immortal souls, mystically joined in the Church of God by God himself? Sin indeed is exposed to "second death," and for sin-separated couples there is a spiritual grave, where the name of wife or husband may be buried in eternal forgetfulness; but for those who have walked in faith, and holiness, and love, what is death more than external separation? The wife is still a wife, although she be deceased; and all the connexions with which she was associated, every tie which links with the husband, necessarily remain.

Mortal companions part, early or late, in proportion to their comparative strength, as the decaying cable fails to hold the weighty anchor;

stop? The filial, the fratern  
tions are based upon the c  
perils one endangers all, and  
parental tie might be violated  
the state, we do not doubt t  
reason would be found for t  
should exist only whilst all th  
were in action. Irreverent  
devising arguments in favour  
they deem expedient.

It is on the ground of ex  
the change in question is sought  
to the temptation of forming th  
many, who do not reach the hig  
ing which can alone keep the  
position to yield to inclination,  
stances. To meet the difficul  
those who voluntarily descend t  
feeling, it is deemed expedient  
timents of the majority to the

ledge and ordinary morality, but of the reverential spirit which looks below the surface of the written law, a hardening process is induced, which soon shuts out every monition except the commonplaces of religion, as they are interpreted by expediency. Expediency, that fatal moral epidemic! Engendered of over-crowded imaginations, it thickens the atmosphere of conversation, bedims the sight, weakens integrity; and it moves on and on, prostrating holy truths, turning pale the cheek of the Church herself, and, if unchecked, ending in the weakened and collapsed state of her fairest institutions. These are days when principles are in jeopardy. Because some find such alliances easy to be contracted, is it wise to alter the constitution of families, which has prevailed for centuries, and been sanctioned by the Church? We are told of the number of these marriages, but what does this prove? Is it not an index of a deteriorated refinement of religious feeling, an evidence of decay in the domestic system? We are told, also, that these alliances occur chiefly amongst the lower classes. Are we to take the key-note of our legislation from them, rather than exerting our energies to make them apprehend the realities of spiritual connexion, which the educated and religious have caught? The proposed amendment is an excuse to leave the poor without the school, without the church, and without homes.

It is asserted that aunts make the best stepmothers. “*Lurida terribiles miscent aconita*

lively interest in the children o  
will operate to produce tende  
children of a living husband; b  
families, the same causes which  
of the first and second families i  
invariably produce ill feeling, v  
mother be the aunt or a stranger.

On the other hand, the exist  
wholesome. It creates a fratern  
makes a marriage a gain to a w  
lose the presence of a daughter,  
The sisters are sisters still, not o  
only in law, but in intercourse.  
and unembarrassed bearing betw  
and the sister, who is raised to a  
domestic empire second only to th  
position is maintained chiefly by th  
under any circumstances this inter  
closer, and need never be less.

They must be short-sighted :

the indifferent, preserves peace to the affectionate. The known fact that an union with the sister is possible, and, considering the precarious tenure of life in the early stages of a woman's married career, always probable, will open the door to a thousand fears, a thousand imputations, a thousand embarrassments, which are now excluded. Imagine the reserve which the husband and sister must always keep, and which, in proportion to their mutual regard for the wife, and for the integrity of their own intentions, they always will keep; imagine the sister to be the last person to hasten to the sick bed of the dying wife, lest she should seem to come as heir-apparent to her place; imagine that life of an English family, the aunt, shut out, or formally received as an occasional and punctilious guest; and the balance of the benefits and privations attendant on the proposed alteration will, at least, be doubtful.

Again, we must repeat that this is a question of feeling and sentiment, the results of faith.\* The Church has always forbidden the alliance, the law of England still forbids it. The civil law sympathises with the ecclesiastical, and, recognising the spiritual mystery of marriage, calls the wife's sister the sister-in-law of the husband; but if she is to be now brought down from her cherished position, it can only be by weakening the sense of the marriage tie, and by divesting it of its spiritual sanction. It is a fatal corollary of the Marriage Registration Act.

\* See Appendix B.



position but a liability to improve to be purchased only by the merging of the brother in the estrangement of that sister children.

Taking a retrospective view out in the preceding pages, the position appears to be firmer than If I am right in believing that the religious repugnance to such affirm that it is the mark of a law to pass laws which shock the conscience of the majority? If it be true, taught by "them of old time," involves so close a spiritual union with a sister in affinity to the husband that a change can be made with the spirit of the English law, and English homes?

Many other arguments might be produced but -

it is unwise to question and dangerous to despise.\* This, surely, is sufficient to oppose to the shallow pretext of Protean expediency, which, to suit its own purpose, either of discouraging the faith or of shifting its own burdens, is ready to convert the failings of the few into precedents for the many, and will barter integrity for license.

Two things, if they were practicable, would stop the proposed enactment—the confessions of those who have thus committed themselves, and a true appeal to those at home.

Let those for whom the relief is sought be shrived in the political confessional of a committee-room, with enough of secrecy to encourage sincerity, and enough of publicity to let all men know of their repentance.

Let every man who votes or signs in favour of the alteration, invite a family-party on the night of “the division,” and there, in the complacency of his wife, in the gladsomeness of her sister, in the

\* There is in the New Testament only one law more which relates to this question of marriages,—“Provide things honest in the sight of all men,” and “Follow after things which are of good report ;” that is, whatsoever is against public honesty, the law of nations, the common sense of mankind, that is not to be done by Christians, though of the instance there be no special prohibition in the laws of Jesus Christ. And Modestinus, the lawyer, said well, “in nuptiis non solum quod liceat, sed etiam quod honestum sit, semper est respiciendum,” concerning which, lest there be any mistake in it, I premise this caution in general, that we do not take false or weak estimates of public fame and honesty.—BP. TAYLOR, *Ductor Dubit.* lib. ii. cap. 2, p. 309.

...more, that the change he ad-  
shade over his own hearth?

IN Fry's "Case of Marriage between near Kindred particularly considered," it is maintained that the prohibition in **Leviticus** xviii. 6, refers to outrage or immodesty (pp. 59, 60).

Diodati paraphrases thus: "Violer en aucun acte ou manière la pudicité et le respect qui est dû au sang." But he proceeds, on v. 18, as though he believed that marriage was forbidden: "Cette conjunction est taxée d'inceste." And again, v. 16: "Veu qu'il y a une mesme raison pour le mari de la sœur, que pour la femme du frère." The testimonies collected in the "Critici Sacri" are to the same point, confirmed, so far as the author can judge, by the Rabbinical writers. See also "Poli Synopsis," and Bishop Patrick *in Loc.*

The learned Hammond regards this passage in the same light as "a restraint prescribed and from that some boundary by law be cast up against unbridled lust, not permitting to marry those that are near of kin, and that extended to the kindred of his wife, as well as the man's own kindred, upon that ground of Scripture, that the man and his wife are one flesh, one body, and in reputation of law, one person."

He proves, first, that the marrying the wife's sister was forbidden to the Jews, and, secondly, not superseded by the countermand in Deuteronomy (ch. xxv.) The discussion of the question, how this law given to the Jews binds us, follows, in which he maintains that the prohibition is contained in the universal precepts given to Noah's sons, and acknowledged by the Apostles, Acts xv. "All which I say will, together, make a very competent authority to deter any Christian from the use of it, διὰ συνείδησιν, for conscience of that duty to obedience, which every creature must pay to God, every Christian to Christ, though the Scripture rather intimates this interdict as a thing supposed, than defines how, or when, or to whom (beside the Jews), it was ever given."—HAMMOND'S *Works*, vol. i. Lond. 1674.

St. Basil (Canon 78) appoints a shorter period, for those who marry terers.

In the Council of Auxerre, marriage's sister is expressly forbidden. Par. 1770.

*Excerptions of Egbert, archbishop*

“ If any man shall marry a nun, or  
“ *matrem spiritualem*), or brother's  
“ mother, or cousin-german, let him

“ Constantius made it a capital  
“ marry his brother's or sister's daughter.  
“ minable. He equally condemned  
“ sisters, or a brother's wife (though  
“ the latter in a certain case), under  
“ their children illegitimate, and according to  
“ Theodosius Junior thought it proper  
“ law, though Honorius himself had married  
“ by marrying two sisters, the daughter  
“ cessively the one after the other.”—  
*of the Christian Church*, book vi c. 11

**THE CHURCH**

**AND THE**

**EDUCATION QUESTION.**



# THE CHURCH

**AND**

## EDUCATION QUESTION.

# A LETTER

**TO THE**

LORD BISHOP OF RIPON.

**BY**

BY PARR HAMILTON, M.A., F.R.S.

**LATE FELLOW OF TRINITY COLLEGE, CAMBRIDGE;**

## RECTOR OF WATH, AND RURAL DEAN.

**LONDON:**

**JOHN W. PARKER, WEST STRAND.**

**M DCCC XLVIII.**





THE

## CHURCH & THE EDUCATION QUESTION.

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MY LORD BISHOP,

The education of the poor is become at this eventful crisis a matter of more pressing urgency than ever. Our prosperity, our very existence as a nation depends, under Providence, on the speedy adjustment of this question. True it is, that education is to be regarded as but a branch, though, doubtless, the most important one, of social reform in general. In vain should we attempt to raise the moral and intellectual character of the people, unless we at the same time employed every practicable expedient for bettering their material condition. There can be no mental improvement, no high toned morality, no just sense of religion, so long as men are strangers to the primary comforts, and even decencies, of civilized life. The labouring classes must have a sufficiency of food and raiment; they must, above all, have healthy and convenient dwellings, before we can indulge any hope of their moral amelioration. Though it were visionary,

therefore, to expect from education alone a cure for the many social ills which afflict us, it is certain that, without education, all other remedies must prove ineffectual. Ignorance, if it be not the parent of immorality and crime, is their inseparable attendant. This is a fact incontestably proved by our criminal statistics. By far the greatest number of prisoners are either wholly untaught, or, which is virtually the same thing, have received only the most meagre rudiments of instruction.\* Of moral and religious culture they are, with scarcely an exception, entirely destitute.

The subject, my Lord, to which I respectfully but earnestly desire to draw your attention, is the present position of the Established Church with reference to this momentous question. I address your Lordship

\* Of the 25,000 offenders committed to trial in England and Wales, in 1846,

30.66 per cent. were entered as unable to read and write.

59.51 „ „ able to read and write imperfectly.

7.71 „ „ „ „ well.

2.12 „ „ as having had a superior education.

“Can facts speak more plainly than these? We have given the form of instruction without its life and spirit.”—See Symons's *Plea for Schools*, p. 47.

It is a fearful circumstance, that, notwithstanding all our reformatory efforts, crime is increasing in a far higher ratio than the population. During the five years ending in 1846, the increase in several of the counties has been no less than 13.6 per cent. over that of the population of those counties. In Yorkshire the increase has been 10.87.—*Ibid.* p. 16.

as a Ruler in the Church, as the official representative of the National Society in this Diocese, and still more, as the liberal and unwearied promoter of whatever conduces to the temporal and spiritual welfare of the people.

The Government, by their late measures, have gone as far in the way of improving and extending popular education, as the divided state of public opinion will allow. It now, I conceive, rests with the Church to take the next decided step in advance.

The benefits of the Minutes are held out with the strictest impartiality to all denominations of Christians. But as the proffered boon is declined by several religious bodies, the Church, from this cause, as well as from the greater amount of voluntary contributions she can command, will continue to appropriate the largest share of the Parliamentary grant. Of the school-houses already built with the aid of the public money, by far the greatest number belong to the establishment. Directly connected with it there are now in operation about twenty Normal Schools, of which those of St. Mark's, Battersea, Chester, York and Ripon, are in a state of high efficiency.\* In

\* At page 61 of "Practical Remarks on Popular Education," are enumerated twenty-one training institutions, of greater or less efficiency, connected with the church. Of these, four are under the direction of the National Society, and the remainder under that of Diocesan Boards. Considerable additions are now in actual progress, or in contemplation. The National Society

yet to a limited extent be re  
And she has a numerous staff  
tered over the face of the co  
office it is to spread around ther  
and religion. The Church has

has just completed a training school  
to receive sixty pupils. One for Non  
It is proposed to enlarge St. Mark's, t  
150 students. The training schools a  
Exeter, are also to be placed on an  
ones are about to be established at  
Bristol. It is intended to erect at Ch.  
"upon Scriptural, Evangelical, and  
accordance with the Articles and Li  
Church." And another upon the san  
still larger scale, is understood to be  
immediate vicinity of London.

The number of Normal Schools v  
adequate to the great and increasing d  
the same time it must be borne in r

of a well-organized and permanent educational institution. How greatly would the sphere of her usefulness be enlarged, were she to throw open her schools to all classes of Christians; steadfastly upholding her own doctrines, but not seeking to force them upon persons of a different communion, as the price of a sound scriptural education. Without abating one jot of her dogmatic teaching to her own children, but simply extending to those beyond her pale the benefits of her general instruction, the Church might thus lay the foundation of a system of education that should be national in reality, as well as in name. What a noble field would thus be opened to her beneficent labours. Casting aside unworthy jealousies and groundless distrust, and co-operating in a spirit of unreserved cordiality with the Legislature, how incalculably might she advance the great interests of Christianity and civilization.

Before entering more fully into the discussion of this subject, it is necessary for me to offer a few observations on two preliminary points. The first of these relates to the educational measures of the past year; the second to the general question of religious instruction.

A new era in the history of popular education may be dated from the promulgation of the Minutes of August and December, 1846. The grants previously distributed by the Committee of Council were confined to the building of school-houses, and in some cases, of houses for teachers. Those Minutes embodied

...nesses. Large and enlightene  
ment were expressed by the lead  
Scarcely a voice was raised in  
voluntary system. And the two  
struggled for in vain by the earl  
were unanimously recognised—  
to promote the education of the  
of the people, of all religious pers  
in the funds devoted to that purp

Whatever might be the recepti  
the public at large, the prevaili  
the members of the Legislature w  
their limited scope. The event,  
that they went to the extreme  
practicable. Those who for  
watched the progress of this vita  
sorrowfully beheld the obstacles it  
at every step, must be fully sat  
measure would have been reject

... ..

At the same time, the warmest supporters of the late Minutes are ready to allow, that they fall lamentably short of the exigencies of the nation, and that a much bolder and more extensive scheme is necessary to place the education of the people on an effective footing. But the question is not yet ripe for legislation. What we are now doing must be considered as an experiment only. To establish sound principles, and to exhibit practical results, are the points to which our immediate efforts ought to be directed. The annual grant for education will furnish an opportunity for the expression of public opinion, legitimately conveyed through the representative body; when all improvements which experience may have tested will be brought under review. The series of Minutes, adapted as they are to a transitional state of education, cannot be regarded as other than temporary. It may naturally be expected that, sooner or later, when they have fulfilled their destined purpose, they will be superseded by a legislative enactment for the education of the working classes.

The government measure has been so fully discussed, its design is now so well understood, and the advantages it confers are so generally appreciated, that it would be superfluous to enlarge upon it. It may be useful, however, to glance at the chief modifications it has undergone, and the additions it has received, since its original introduction.

The benefits of the Minutes were in the first instance restricted to teachers who had been trained at



a Normal School, under inspection. This restriction has been removed. All such benefits will in future be extended to teachers of inspected schools, who have left Normal Schools without certificates, or who have never been at Normal Schools at all; provided that, after an examination to be held for that purpose, they shall be reported by the inspectors to be duly qualified.<sup>a</sup>

Prior to the publication of the new Minutes, schools not in connexion with either of the two great societies were excluded from a participation in the Parliamentary grants, “unless some special circumstances were exhibited to induce their lordships to treat the case as special.” This regulation has been done away. All such schools will now be admissible to the advantages of the new system, upon this condition—that “the daily reading of a portion of the Scriptures shall form part of the instruction in the school.”<sup>b</sup>

The Minutes originally required that in schools not connected with the Church of England, the managers should annually certify that they were satisfied with the religious knowledge of the pupil teachers, or stipendiary monitors. This requirement has been dispensed with. The Committee of Council, acting in the spirit of the Resolution of the 19th of August, 1839, will in future require no such certificate from

<sup>a</sup> See Supplementary Letter, M.C.C. 1846. Vol. i. Also Explanatory Letter to Inspectors, *Ib.*

<sup>b</sup> Explanatory Minute, *Ib.* p. 24.

managers of schools, who “object on religious grounds to make a report concerning the religious state of their schools.”<sup>a</sup>

The most important of the additional Minutes, is that which relates to the Management Clauses of school deeds. As this Minute has, unfortunately, given rise to much misapprehension and alarm, I may be pardoned for dwelling upon it at some length.

The constitution of the Local Board is a matter of the greatest moment to the efficiency of the school. This subject attracted the attention of the Committee of Council at an early period of their labours, in consequence of the loose and defective regulations which were found embodied in the deeds of Church-of-England schools.<sup>b</sup> To provide a remedy for this evil, the Committee of Council (then presided over by Lord Wharncliffe) drew up, in the year 1845, certain clauses, one or other of which, according to local circumstances, they deemed it expedient to have inserted in the trust-deeds of schools assisted by the public money. Before, however, it was required of the promoters of Church schools to adopt those clauses, they were submitted to the National Society, which signified its approval of them, but suggested, at the same time, that the superintendence of the clergyman should be extended to the moral, as well as the reli-

<sup>a</sup> Supplementary Minute. July 10, 1847.

<sup>b</sup> For instances, see Mr. Kay Shuttleworth's Letter to the Bristol Deanery Board.—Official Letters, p. 14.

gious instruction of the scholars.<sup>a</sup> This suggestion was assented to by the present Committee of Council soon after the appointment of Lord John Russell's administration. That the proposed clauses were not fully accepted by the National Society is evident from a letter addressed by its late Most Reverend President to the Secretary of the Committee of Council.<sup>b</sup> In that letter, the Archbishop testified that "satisfaction" of the Committee at the concession thus made; he considered "this clause as a security for the due prominence of religious teaching;" and he expressed "a sanguine hope that, under its influence, the clergy and their respectable parishioners will cordially co-operate for the religious, moral, and intellectual advancement of the children of the poor."

After repeating, in the name of the Committee, "the expression of their desire," that "the same liberty of choice, as to the constitution of their schools" should be left as heretofore to the promoters of education, he added: "The Committee of the National Society, are, however, prepared to employ their influence in recommending the clauses marked A., B., C., and D., to applicants for aid, it being understood that the applicants may select the clause most adapted to their own case."

The clauses in question are founded on the Terms of Union with the National Society, in conformity

<sup>a</sup> Letter from the Secretary of the National Society to the Secretary of the Committee of Council, May 12th, 1846.

<sup>b</sup> Dated Nov. 23rd, 1846.

with which certain of the intelligent lay parishioners, subscribers to the school, and *bonâ fide* members of the Church, are associated with the parochial clergyman in the management of the school. When there are in the parish no lay members thus qualified, the management is devolved on the clergyman alone, until the Bishop shall direct that a committee of subscribers be appointed.<sup>a</sup> The masters and mistresses are to be members of the Church of England. The clergyman, besides being *ex officio* chairman, is allowed to have a casting vote, and to place his curate or curates on the committee. As already stated, he is to have the sole direction of the religious and moral instruction; and, if any dispute should arise on this point, it is to be referred to the Diocesan, whose decision is to be final. Moreover, the Bishop is entrusted with the absolute power of forbidding, during school hours, the use of any book which he deems objectionable, and of prohibiting any teaching of the master or mistress, which he judges to be at variance with the doctrines of the Established Church.<sup>b</sup>

Such is a general summary of the clauses. The purpose for which they were framed cannot be more clearly expressed than in the following words: "It is their Lordships' intention to secure to the clergy, by these clauses, their rightful influence in the management, and to provide for a proper representation of those of the laity who, as members of the Church, by

<sup>a</sup> See Clause C.

<sup>b</sup> See Letter to the Bishop of Ripon, Nov. 7th, 1847.

their subscriptions, exertions, and influence, promote the prosperity of the Parochial Schools.”<sup>a</sup>

It must, I think, be generally admitted, that it would be difficult to lay down any regulations better adapted to attain both these objects.

Amidst the opposition which has been raised against the management clauses, we cannot but be struck by a strong *primâ facie* argument in their favour. The recognised organ of communication between the Committee of Council and the Church-of-England schools, is the National Society. Had those clauses been of an objectionable character—had they, in the opinion of the Society, been in the smallest degree detrimental to the Church, they would have been promptly rejected. The tacit acquiescence, therefore, of the National Society would have afforded a valid presumption, that there was nothing in the clauses likely to operate injuriously to the Church. The actual approval of the clauses by the National Society—accompanied though it was by the qualification mentioned above—and its avowed readiness to “employ its influence in recommending” them to “applicants for aid,” are conclusive proofs that it deemed them not simply harmless, but beneficial.

But, in point of fact, are the clauses fairly liable to any serious objections, which escaped the penetration of the Committee of the National Society, and of its late Most Reverend President? Such objections as

<sup>a</sup> Letter from Mr. Kay Shuttleworth to the Bishop of Ripon, Nov. 7th, 1847.

have since been urged against them are fully considered, and, to my mind, satisfactorily answered, in the letters addressed by the Secretary of the Committee of Council to the Bristol Deanery Board, and to the Dean of Lichfield. No one of course will deny that in some of their details the clauses may be susceptible of improvement. But after a dispassionate examination of their general tenour, I profess myself unable to discover any just ground for the alarm which they have excited. On the contrary, I am persuaded that their effect will be to strengthen the just influence of the clergy, and to promote the prosperity and efficiency of the Church schools.

That some portion, at least, of the dissatisfaction which has been so loudly expressed, has arisen from a misconception of the real character of the clauses, is evident from two charges which have been brought against them. In the first place, strange as it may appear, a centralizing tendency, as your Lordship will doubtless recollect, has been imputed to them. It is hardly necessary for me to observe, that the reverse of this is the fact; it being their distinguishing characteristic to vest the general management in a purely local board. The only trace of centralization, which can possibly be discerned in them, lies in the appeal—not to the Committee of Council—but to the Bishop of the Diocese. A second charge, no less destitute of foundation, is, that the clauses are calculated to abridge the just influence of the clergyman over his school. So far from leading to such a

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result, they actually entrust him with more ample authority than he enjoyed under the Terms of Union with the National Society. By the latter, he was empowered to superintend the religious department only; the former, as we have seen, confide to him the moral, as well as the religious, instruction of the scholars.

Had the clergyman been invested with any exclusive authority beyond this, it would reasonably have awakened the jealousy of the lay subscribers. That laymen, if duly qualified, are entitled to take part in the management of any school which they have assisted to found, and which they contribute to support, is what few will venture to dispute. But the authority committed to them must be substantial, not nominal. This is the point which is really at issue. Without the hearty support of the laity, our exertions in the cause of education would be, in a great measure, unavailing. Hitherto the difficulty has been to obtain their co-operation. Now that it is beginning to be cheerfully yielded, is it wise to throw any obstacles in the way of its exercise? The confidence of the laity would be destroyed, and their aid withdrawn, by any attempt on the part of the clergy to grasp a larger share in the control of the school, than legitimately belongs to them. The only question that can here arise is, what guarantee have we that the lay members of the Committee really belong to the establishment? On this point the Committee of Council have declared their readiness to give

any reasonable security to the Church.<sup>a</sup> In the uses, as they now stand, the lay managers of the school are required to be "members of the Church of England;" these being the precise words made use of in the Terms of Union with the National Society. This definition, although not objected to, as far as I am aware, when the clauses received the sanction of that Society, has since been considered unsatisfactory. It has, therefore, been recently proposed by the National Society that all members of a school board "shall qualify for sitting on the same, by subscribing a declaration that they are *bonâ fide* members of the Church of England, and not joined members, or frequenters of the worship, of any other religious denomination." There are some who consider even this to be an inadequate test of churchmanship; although the only subscription of the kind exacted by the University of Cambridge from a candidate for the degree of B.A., is a declaration "that he is *bonâ fide* a member of the Church of England as by law established."<sup>b</sup> A declaration still more specific than that which excludes dissenters from Academic Degrees, might surely be deemed stringent enough to bar their admission to the committee of a parochial school. To harbour any suspicion of "literate and respectable laymen," who thus formally profess their allegiance to the Church, and who bestow their money and their time upon her schools,

<sup>a</sup> Letter to the Dean of Lichfield. See Official Letters, p. 8.

<sup>b</sup> This suffices for B.A., M.B., and B.C.L., but candidates for other degrees are required to subscribe the 36th Canon.

seems scarcely consistent with that charity which thinketh no evil.

Amongst the subjects still under discussion between the Committee of Council and the National Society, is that of an appeal to be "provided in case of differences arising in the Committee of Management upon all other points besides those involving the moral and religious instruction of the scholars." In whatever way this point may be finally decided, I cannot but think that the Committee of Council, steadily adhering to the main provisions of the management clauses, have consulted the true interests of the Church, bound up as these are with the general diffusion of religious and secular education.

I now proceed to offer a few observations on the subject of religious instruction; as it is upon this that the solution of all our difficulties in regard to education chiefly depends.

There are here two questions which, although quite distinct, are yet not unfrequently confounded. Ought education to be based on revealed religion, and ought the religious department to be undertaken by the State?

It is not simply knowledge, but knowledge sanctified by religion, that elevates the moral character of a nation. Secular instruction may diffuse intelligence, it is the Christian element alone that can form a virtuous and a godly people. They who have a deep conviction of this great truth justly insist on the necessity of making Christianity the groundwork of all education. And in fact, wherever a system of

national education exists, it has been organized on a Christian basis. On no other has the government in our own country ever proposed to found it. This principle was expressly laid down by Lord John Russell, in his letter to the Marquis of Lansdowne, in 1839; it was distinctly embodied in the first instructions addressed by the Committee of Council in 1840 to their inspectors;<sup>a</sup> and it has been inflexibly maintained and acted upon ever since. Education cannot be complete, it cannot, in the proper sense of the word, be said to exist, without religion. You cannot train up a child in the way he should go, without imbuing him with just notions of God, of the Saviour, of the Holy Spirit, of a future state of being. But in the actual process of instruction, you impart a knowledge of the facts and doctrines of Scripture at one time, and you teach arithmetic or geography at another. In *education* the religious and secular elements are inseparable; in *instruction* they are, from their very nature, independent. It is easy, therefore, to understand what is meant by secular, as distinct from religious, instruction; but it is a contradiction in terms to speak of secular, as distinct from religious, education. The whole system and discipline of the school ought to be pervaded by a religious spirit; the direct religious

<sup>a</sup> "Their Lordships are strongly of opinion that no plan of education ought to be encouraged, in which intellectual instruction is not subordinate to the regulation of the thoughts and habits of the children, by the doctrines and precepts of revealed religion."

instruction must necessarily form a separate and specific part of the tuition.

It were needless to dwell on the much agitated question of a purely secular scheme of instruction. Independently of all other considerations, there are two practical objections to it which are quite decisive. We never could meet with masters worthy of the name, if their lips were to be sealed upon the most momentous of all subjects: and multitudes would live and die in ignorance of the great doctrines of Revelation; if these were not taught to them at school. We may take it for granted, therefore, that no general plan of education will ever be brought forward by the government, or tolerated by the nation, except on this condition—that religious instruction be imparted in the day school, and by the schoolmaster.

The answer, then, to the first of the preceding questions can admit of no doubt: all parties agree that Christianity ought to be the animating principle of education. And if all parties professed the same form of Christianity, there would be no less unanimity in answering the second of those questions. But the Established Church is no longer co-extensive with the nation. That numerous bodies of our countrymen, powerful from their wealth, and eminent for their piety and intelligence, dissent from her doctrines and her discipline, is a fact which must be ever present to the mind of the statesman and the legislator. In a country thus divided in religious opinion, the government, if it deal with the question of religious

instruction, has only these two courses open to it. Either it must teach those fundamental doctrines, which Christians of all denominations hold in common,<sup>a</sup> or it must adopt the established religion, with full recognition of the rights of conscience in those who dissent from it. In other words, a State system of Christian education can be founded only on the principle of religious equality, or on that of religious toleration. No such general system has ever yet been proposed. But two partial measures, based respectively on those principles, were introduced under the administrations of Lord Melbourne and Sir Robert Peel. The first was a project for a Normal and a Model school in 1839; the second was a plan for the education of children in factories and factory districts, embodied in Sir James Graham's Bill of 1843. Both were rejected, and upon grounds which would have led *à fortiori* to the failure, in each case, of a more extensive measure.<sup>b</sup>

<sup>a</sup> "To separate from the brethren, and oppose the general practice of the Church, is to incur a heavy responsibility. But I judge from facts, and experience, and human nature. And the comfort and peace of the Christian world would be greatly increased, if it were commonly understood that the unity which the Scriptures demand, were the unity of those who hold alike the great doctrines of Christian truth, but consent to differ on matters concerning which Scripture does not carry determinate conviction to every honest mind."—*Bishop of Chester's Charge*, 1841. 2nd edit. p. 16.

<sup>b</sup> See "The School in its Relations to the State, the Church, and the Congregation."—Ch. iv.

Are we then to abandon in despair all further attempts to establish a joint system of education? Because we cannot give all in common, are we to give nothing? The separate or denominational plan is fraught with so many evils, that nothing short of an overpowering necessity should make us submit to it. One of the most alarming features in the aspect of the times we live in, is the estrangement which exists among the different classes of our artificial and complicated society. Let us beware of adopting an educational scheme, which would inevitably tend to widen this estrangement, to foster sectarian prejudices, and to rear the rising generation in feelings of mutual suspicion and dislike.

In discussing this question we ought constantly to bear in mind these two things. First, that the great practical end of religious instruction is to form the character, to impress virtuous habits, and to bring all the affections of the heart into harmony with the Gospel : secondly, that it is children of tender age whom we have to deal with ; beings of ardent feelings, but unripe understandings. Our religious teaching, therefore, ought to be perfectly plain and simple. Babes as they are in Christ, we should be content to feed them with the "sincere milk of the Word," instead of disputing with one another about the best mode of giving them the "strong meat," which properly "belongeth unto them that are of full age."

Is there, I would ask, no common ground, upon which Christians can meet to bring up little children under

ten or eleven years old, in the nurture and admonition of the Lord? Is it absolutely impossible to teach them, under a combined system, to love God—their Creator, Redeemer, and Sanctifier—above all things, and their neighbour as themselves? Strange and sad it is, that, famed as we are among the nations for practical wisdom, we should yet, year after year, be precluded by difficulties, chiefly of a theoretical nature, from bestowing on our youthful population the inestimable blessings of a Christian education.\* Stranger and sadder still, that, while we are contending about the best possible method of imparting religious instruction to the young, we should be suffering multitudes to live and die in profound ignorance of the way of Salvation, and of their duty to God and man. For it is undeniable, that in this Christian country there are thousands upon thousands, not merely

\* “Whilst statesmen and philosophers, churchmen and dissenters, are discussing whether there ought to be a system of National Education at all, and if so, what that system ought to be, the Ragged School Union presents us with an example of a few practical people improving the time, and bringing education home to the classes who stand most imperatively in need of it, and with means almost absurd from their littleness, producing most important and beneficial results.”—*See Fourth Annual Report of the Ragged School Union*, p. 8.

There are now no less than sixty-two Ragged Schools in London alone. It was recently announced by Lord Ashley, at a meeting of the Field Lane Ragged Schools' Institution, that Government proposed to select annually 150 pupils from the schools, and send them to the Colonies with certificates of good conduct.



ignorant of letters, and strangers to self-respect and self-denial, but who are absolute heathens, as regards religion; having no idea of a Creator or a Saviour, no sense of responsibility, no thought of an hereafter. Like the brutes that perish, they live "having no hope, and without God in the world." That this is not the language of exaggeration must be well-known to your Lordship, and to all who are acquainted with the deplorable facts disclosed in the educational and criminal statistics of the kingdom.\*

The plain truth, my Lord, is, that we proceed upon altogether fallacious grounds. Assuming that we can give a complete religious education to the children of the poor, and forgetting for how brief a space we have them under our care, we set ourselves to consider what such an education ought to embrace, and because we find it impossible to devise a plan that shall be theoretically perfect, we shrink from the attempt to form any plan at all. Whereas the problem we have actually to solve is reduced to this: *given the attendance of children, under eleven years old, for two*

\* It is unnecessary to quote authorities for what unhappily is a matter of so great notoriety. For instances, however, of the utter absence of all religion among our untaught masses, I would refer to the Reports of the Scripture Readers' Association, particularly to the second Report, page 8, and the third, pages 7, 8, and 24: also to the Report of London City Mission, page 7. See likewise a passage in Mr. Watkins's Report, M.C.C., 1846, i. 441.

*or three years at the most, how can we turn these few years to the greatest advantage?*<sup>a</sup>

Nay, the question even when thus simplified, is overstated. For Mr. Moseley informs us that—"It is a general impression amongst the persons who are likely to be the best informed on the subject, that the average age of the children who attend our elementary schools is steadily sinking. We may be educating *more*, but they are I believe *younger* children, and they stay with us a less time."<sup>b</sup> And Mr. Cook remarks: "I may safely assert that the parishes in which one boy out of twenty remains at school beyond eight and a half years of age were rare and exceptional cases."<sup>c</sup> It is earnestly to be hoped that a remedy will in time be discovered for this crying evil, and that the school term may be prolonged

<sup>a</sup> The premature age at which the children of the poor leave the day schools, and the short time they remain there, are points which are established by the concurrent testimony of all who have turned their attention to the subject.

As to the first, Mr. Tufnell states: "You are aware from the Reports of the other inspectors, that in by far the majority of schools the children never remain beyond the age of ten."—M.C.C., 1846, ii. 546. And with respect to the second point, Mr. Watkins informs us: "The average duration of this seems to be (as I have had occasion to state before) less than two years—one year to three quarters is probably the time—in which the chief instruction of their whole life is to be given. I speak here of the time spent in the juvenile school, and not in the infants'."—M.C.C. 1845, ii. 178. See also Symons's *Plea for Schools*, page 30.

<sup>b</sup> M.C.C. 1846, i. 150.

<sup>c</sup> *Ib.* p. 280.

in this country, as it is upon the continent, to the age of fourteen. But in the meanwhile, we must make the best of existing circumstances. Bearing in mind, then, what has just been stated, we cannot fail to perceive where the real difficulties lie, which impede the settlement of this question. It is quite evident that they attach not so much to the scholar, as to the teacher; not so much to the subject matter of instruction, as to the judgment and discretion of the instructor. I cling therefore to the hope and belief that such difficulties will not ultimately be found insurmountable. To conquer them, no indifference to vital tenets, no surrender of principle, is called for; nothing but a conciliatory and tolerant spirit among Christians of the several communions. The want of this, the absence of that charity, which we are all of us more ready to honour with our lips than in our lives, is the master difficulty; and not an inherent impracticability of teaching in common to children, not yet "come to the years of discretion," the leading doctrines and the plain duties of the Gospel.

Our answer, then, to the second of the questions above proposed must be, that so long as the various religious bodies refuse to concur in any joint plan of religious instruction, it is manifestly impossible for the State to undertake this department. The limits within which its province is thus confined are distinctly marked. In any system of education sanctioned by the State, Christianity must be the basis, yet no standard of religious teaching must be enjoined, but

what all Christians agree in. These two conditions meet in the Holy Scriptures alone. All who profess the name of Christ acknowledge the Bible to be the rule of faith and practice. By making the daily reading of it imperative in every school assisted by the public money, without attempting to define the precise mode in which it is to be so read, the State adopts the only possible means of at once securing religious instruction, and avoiding any interference with religious freedom.<sup>a</sup>

Here it may not be inappropriate to remark, that the Holy Scriptures should never be placed in the hands of a child, until he has acquired considerable facility in reading. They ought to be read on a systematic plan, carried on progressively through the several classes, so as to make the historical and prophetic passages of the Old Testament throw light upon the New.<sup>b</sup> The Bible lesson should be considered as a strictly religious exercise. All questions of grammar and of verbal criticism, beyond what

<sup>a</sup> A modification of this rule, to meet the case of Roman Catholic children, was proposed by the Government in 1843, and acquiesced in by the Church.—*See Clause 64 of Sir James Graham's Factory Bill.*

In a petition presented to Parliament in 1839, the Deputies from the several congregations of Protestant Dissenters of the Three Denominations express an earnest hope “that the education of the population, Jewish and Christian, will be sedulously connected with a due regard to the Holy Scriptures.”

<sup>b</sup> See “Reports on the Training of Pauper Children,” pp. 53 and 123. Also, Mr. Stow's Bible Training.

It may be safely affirmed that the labouring population, especially in the districts, the English language, as written by the educated classes, is in an unknown tongue. This impediment with their native dialect is an obstacle of great magnitude to the poor. It shuts out the labouring man from communion with cultivated minds and from the treasures of wisdom accumulated in our national literature. It makes the Bible itself, in effect, a book which would teach the people therefore to stand aloof from the Holy Scriptures, we must endeavour to teach them to read and to understand the English tongue. To this end, its etymological and grammatical structure ought to be systematically taught in every day school. Of all the branches of instruction none is more useful and none is one of the best of mental exercises.

tracted public attention to the admirable Sessional School of Edinburgh. And in the National Schools of Ireland, and the best conducted schools of England, it is now justly regarded as an essential part of elementary education.

The utmost care should be taken that we degrade not religious instruction to the level of an ordinary task. It should be communicated in a very different spirit from a lesson in parsing, or the Rule of Three. It is now, indeed, generally allowed that we desecrate the Bible by using it as a primer, although it is to be feared that in innumerable instances the practice is still opposed to the theory. In infusing a knowledge of religion, we must apply ourselves to the heart and its affections, instead of merely taxing the memory. True, it is impossible to instil religious feelings without teaching the fundamental truths of revelation. But we want something more than a cold and lifeless acquaintance with points of doctrine. We want those right principles of conduct and those virtuous habits, which spring from a deeply-rooted sentiment of piety. Bring up a child from the tenderest years, with a reverence for truth, with a respect for the property of others, with habits of prudence and self-denial, and with feelings of kindness and good-will to all, and you provide one of the most effectual safeguards for the order and well-being of society.

I am not advocating morality apart from religion. Let a man lead ever so moral a life, it is not a Christian life, unless it spring from Chris-

... we teach words only, wheeling sentiments, and implanting habits. The Christianity of many instances nothing more than by heart; a mere form of godliness and reality and power.\*

It is not by presenting to our naked truths of Christianity, that amend their evil dispositions, or their propensities. We must not confine our attention to words, or our religious truths. Good habits are impressed on a child by telling him that one thing is right and another is wrong, but by accustoming him to do the one and to abstain from doing the other. We must teach him to know but to do the will of God.

There cannot be a more pernicious error than tating the letter of Christianity for the knowledge of the facts and doctrines.

have his memory well stored with Bible texts, and be able to repeat his catechism, without missing a word; yet, from the neglect of religious training, he may habitually violate his duty to God and his neighbour; just as in maturer years he may become an expert theologian, and yet be destitute of the graces and virtues of a Christian.

There are doubtless many exceptions to these remarks, and it is consolatory to reflect that the number is daily increasing. The government inspectors bear testimony to the steady improvement in the religious knowledge of the poor, in consequence chiefly of the increased attention of the clergy to this essential branch of instruction.<sup>a</sup> But that the preceding observations are not overcharged, and that they apply to the greater number of our elementary schools, can be doubted by none who have read official reports, or whose duties have afforded them an opportunity of judging for themselves.<sup>b</sup>

<sup>a</sup> See especially Mr. Moseley's Rep. M.C.C. 1846, vol. i. p. 159; also Mr. Cook's, *Ib.* p. 255.

<sup>b</sup> Evidence of the defective character of the religious instruction given in our day-schools may be found in the Reports of the Inspectors, *passim*; also in the Reports of the Commissioners for Inquiring into the Employment of Children and Young Persons in Mines and Manufactures.

The Reports on the State of Education in Wales abound with mournful evidence to the same effect. Mr. Johnson says:—  
“Ignorance of the first outlines of Scripture history and of the truths of Christianity was frequently found to be compatible



beginning with the history and they are most capable to receive; yet be not neglected or forgotten; yet that they be not overwhelmed. they do well. Doing all with such that they may perceive it is the very common matter. Teaching them by

It is not in the elementary school question of religious instruction and attention.

The necessity of fixing a high standard

with accurate repetition of the Church Catechism and the Thirty-Nine Articles."—Part iii. p. 4

And again Mr. Symonds:—"I am confident within the truth when I say, that three-fourths of the Schools I examined (with the exception of the superior schools) were wholly ignorant of the very events they were in the daily habit of believing that if a minute and searching inquiry were made into the Scriptures—"

tion for the office of teacher is universally admitted. The system of apprenticeship, and the comprehensive course of study now pursued in many of our training institutions, leave no room for apprehension as to the professional skill and the literary attainments of the future teachers. If there exist any ground at all for fear on this point, it is of our going to the other extreme. It may fairly be questioned, whether we are not in danger of carrying a little too far the sound maxim, that a schoolmaster ought to know much more than he is required to teach. I am quite aware, from many conspicuous examples, as well in our own country as on the continent, that the discharge of even the humblest and most irksome scholastic functions is compatible with the utmost refinement of mind, and the highest intellectual culture. But it is deep, heartfelt, Christian piety alone, that can render such an union possible. The religious training, therefore, of the schoolmaster is a matter of paramount importance.\* To form the character of a Christian

\* Mr. Moseley pays a high tribute to the general excellence of the system pursued at St. Mark's College. "The system appears to me to be based in a profound sense of the sacredness of the office of the teacher, a just appreciation of its responsibilities, and a firm faith in its destinies. A solemn and a religious character pervades it. It is to be seen in the grave but gentle deportment and dedicated spirit of the students,—the general good order maintained, apparently without effort, and a sense of duty everywhere present and operative."—M.C.C. 1846, i. 539.

It is to be regretted, however, that he does not report

gentleness, humility, and self-denial be a failure. He will never find filling the arduous duties that a rear up a succession of clever teachers to a complete familiarity with the duties of their future calling; but ought to be directed to making them good and humble-minded Christians, or thrown away.\* Hence, while we possess accurate knowledge of the Holy Scriptures and formularies of our Church, our especial care to cherish in the teacher this position, and to repress the growth of a polemical spirit. In the case of the scholar, we must ever make religious instruction servient to religious principle and to the favourably of the progress of the pupils in the study of their studies—the art of teaching.—Ibid.

\* A very striking exposure of the

Now, I must frankly avow my fear, that in some of our institutions there is danger lest we send forth students in divinity, rather than pious and devoted teachers of the poor. That this fear is not wholly imaginary is, among other reasons that might be adduced, apparent from two significant statements contained in the last publication of the Committee of Council on Education. Mr. Watkins reports, that he met with no less than seven masters, of whom five "had been trained in diocesan training colleges," who were "about to leave their schools for the purpose of admission into the holy orders of our church."<sup>a</sup> And Mr. Mosely also gives the "*record of a case in which the ambition of the schoolmaster to become a clergyman had obviously impaired his efficiency as a teacher.*"<sup>b</sup> I may perhaps be permitted to remark, that no one can be much surprised at these results, when he reads the list of subjects in the theological department, on which the student teachers are examined.<sup>c</sup>

I cannot quit this topic without expressing an earnest hope, that the benefit of having regularly trained teachers may no longer be confined to the children of the poor. An accurate acquaintance with the theory and practice of education ought to be considered an indispensable qualification, in all who undertake the responsible office of teacher, whatever may

<sup>a</sup> M.C.C. 1846. i. 410.

<sup>b</sup> Ibid. p. 175.

<sup>c</sup> See M.C.C. i. 519; also List of Subjects tendered for examination, p. 531.

be the sphere in which they are called to exercise their functions.\*

Much that is faulty in our system of religious instruction arises from the injudicious manner in which the Church Catechism is commonly taught. This Scriptural form of sound words is not a scientific compendium of theology. It is essentially practical in its whole scope and design. Its purpose is to present a concise summary of the doctrines and duties of Christianity; and this it does in terse and perspicuous language, divested of all technicalities. When properly taught and explained, when made the text-book of the teacher rather than the hand-book of the learner, it forms an excellent introduction to the knowledge of the Christian religion. But it cannot be supposed that it was ever intended to be learned without being understood. I conceive, therefore, that we fall into a great error by teaching it to children of immature age. Neither the language nor the matter is suited to their capacity. The necessary consequence of compelling such to learn it is, that their memory is loaded with words to which

\* Two associations have recently been formed, "The College of Preceptors" in England, and "The Educational Institute of Scotland," which have substantially the same object in view—to ascertain and to certify the literary acquirements and the professional aptitude of teachers, for the middle classes.

In London, a valuable institution has lately been established, under the title of Queen's College "for Female Education, and for granting certificates of qualification to governesses."

they can attach no intelligible idea; so that now, as of old, “many say the Catechism by rote as parrots, without ever piercing into the sense.”<sup>a</sup> As the Bible should not be put into the hands of a child till he can read with fluency, so the Catechism should be reserved for an age, when his mind is so far developed that he may be expected to comprehend its general import at least. On this point I cannot forbear to quote the following just observations:<sup>b</sup>—“Catechisms, excellent as they are, as summaries of religious truths, and valuable as a means of fixing those truths in the mind in a condensed form, so as readily to be recalled, are completely out of place in an infant school. It is the hearts, the affections of infants, that are to be gained on the side of religion; abstract doctrines they cannot understand; and if you accustom them to receive into their memories, not only these truths which from their very nature are above their comprehension, but doctrinal views, which from the form in which they are conveyed can awaken no idea or feeling, it is probable that their understandings will con-

<sup>a</sup> The Country Parson. Ch. xxi.

<sup>b</sup> By Dr. and Miss Mayo. The above extract is taken from Mr. Tufnell’s “Report on the Schools of the Home and Colonial Society.” M.C.C. 1846, ii. 558. After giving it, Mr. Tufnell adds:—“I may also observe that the late Archbishop of Canterbury, when applied to on this subject by the managers of an Infant School in his Diocese, expressed his disapproval of the introduction of the Church of England Catechism into it.” As this was written in the year 1846, Dr. Sutton must be the Primate referred to.

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thou by this word Sacrament?”—*Mr.*  
p. 26.

And again. “In Church Schools t  
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*instruction* in Church Day Schools i  
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valent in many parts of Wales, of drilling children into the articulate reading of English books, without teaching them the meaning of the words.\* The rote-system, which has in a great measure originated in the lazy custom of instructing children from a book, instead of by word of mouth, should be inexorably banished from our schools. All early instruction, especially in religion, ought to be chiefly oral. This of course implies competent skill and knowledge in the teacher; qualifications which it may be confidently trusted will shortly be as general, as heretofore they have been rare.

In the meantime, I am afraid that the observations which Mr. Johnson makes on the schools of North Wales, are susceptible of a far wider application.

“ A fatal delusion has misled the promoters of schools in North Wales. They have supposed that, if children make use of the Bible as a handbook to learn reading from the alphabet upwards, and if Catechisms be carefully committed to memory, the narratives and doctrines therein contained must be impressed on their understanding and affections. The Catechisms and religious formularies which were intended to direct and assist the teacher in explaining Scripture and in imparting religious instruction, to supply the defects of extempore explanation, and to secure the scholars from the inculcation of false doctrine, have had the effect of suspending all intelligent exertion; have degraded the office of the teacher, and reduced the scholars to a

\* See Reports on Education in Wales, Part ii. p. 34, and Part iii. p. 11.



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duty as Christians to do them all the good we can. Though they refuse the Catechism, they receive the Bible. Admit them to our Schools, and we might teach them the usual branches of elementary instruction; we might ground them in a knowledge of the sacred volume; we might rear them in the practice of those social and religious duties which Christians of all communions acknowledge to be binding. Who will deny that such an education as this, even though it wants the Catechism, is better than no education at all? Yet the alternative which we actually present to the children of Dissenters is—Education with the Catechism; or total ignorance, religious, moral, and intellectual. Highly and justly as we value the Church Catechism, ought we to inflict so fearful a penalty on the children of those who conscientiously object to it? In debarring a child from any school where the revealed Word of God is taught and explained, are we—I would ask in all seriousness—acting in the spirit of our blessed Saviour's injunction, "Suffer the little children to come unto me, and forbid them not?"<sup>a</sup> Are the interests of education, of the Church, or of Christianity itself advanced by the exclusion of those, who are desirous to learn whatever we can teach them of secular knowledge, and all that they hold in common with us of that higher knowledge, which maketh wise unto salvation? Deeply were it to be deplored, if, even in a single instance, we should thus fatally visit on the

<sup>a</sup> St. Mark x. 14.

children the doctrinal errors of their fathers. God forbid that we should ever stand by, and see any of these little ones perishing for lack of knowledge, when we might teach them so much that is profitable for the life that now is, and for that which is to come.

It is contended that, wherever there is a National School, the Dissenters have only themselves to blame, if their children remain in ignorance. We offer them, it is alleged, the advantages of education, based upon what we believe to be the only sure foundation; and if they choose to forego those advantages, the consequences cannot be justly laid to our charge. There is a transparent fallacy in this mode of stating the case. It cannot with any show of reason be considered a free choice, when we offer admission to our schools upon conditions which are either certain to be rejected, or which can be accepted only by a violation of conscience.

It is asserted, however, that the rule in question does not practically operate as a hardship, inasmuch as Dissenters rarely show any disinclination to allow their children to be instructed in our Catechism. The fact, as far at least as regards England, is indisputable; but the inference to be drawn from it is, not that dissenting parents in general think as we do, but that they do not think at all. It only proves that they are so ignorant, as to be wholly unconcerned about doctrinal differences; or so eager to secure for their children a sound general education, as to suppress their religious scruples altogether. Is it not a

matter for grief, that we should subject ourselves to the imputation of taking advantage of the ignorance, or the necessities of parents, by imposing our distinctive tenets on their children, under pain of dooming them to absolute ignorance? It is well known that some of the doctrines explained in our Catechism are contrary to the principles of certain of the Dissenters. Is it justifiable to demand from their children answers to questions which, if such answers are not purely mechanical, must be inconsistent with what they consider to be truth? An expedient for doing away with this glaring impropriety has lately been suggested by Mr. Burgess.\* He proposes that the Catechism should be divided into parts, the first of which, consisting of the Lord's Prayer, the Creed, and the Ten Commandments, should alone "be taught to *all* children admitted into our schools." As it is the first four answers and questions to which Dissenters chiefly object, "it would be competent for the Bishop to advise the clergy not to 'oppose' those questions to their children, but to reserve them for a different class of Catechumens."

With great deference for an authority so justly entitled to respect, I must nevertheless be allowed to express my belief, that the concession which he recommends would not be productive of the desired effect. The objections of Dissenters apply not merely to particular portions of our Catechism, but to the Catechism itself as such; the imposition of which they consider

\* See National Schools and National School Teachers; a Letter to His Grace the Archbishop of Canterbury, p. 20.

as inconsistent with liberty of conscience.<sup>a</sup> This fundamental difficulty Mr. Burgess's plan does not attempt to obviate. The only effectual way of removing it would be to exempt entirely from attendance at the Catechism lesson—as we already do from attendance at Church and at the Sunday School<sup>b</sup>—the children of those dissenting parents who desire it.

But granting that our schools are frequented by the children of Dissenters, who are either ignorant of doctrinal points, or indifferent about them; *whom* in point of fact do we exclude? Is it the children of parents immoral, depraved, and destitute of all religious principle whatsoever? Quite the reverse. We exclude none but the children of men of sensitive conscience, men so strongly impressed with the truth of their own convictions, that they would rather forfeit all the temporal benefits of education for their offspring, than purchase them at what they would deem a sacrifice of principle. Ought we to close our schools against the children of such men as these? We think them in the wrong, but it were neither just nor charitable to call in question their sincerity. Mistaken though they be, their firm adherence to what they believe to be the truth entitles them to our respect, and to every indulgence we can show them, consistently with the maintenance of our own principles.

<sup>a</sup> See Mr. Dunn's Evidence in the Report of the Select Committee on Education, 1834. p. 29; qu. 395.

<sup>b</sup> See p. 38.

Whatever may be the case in England with respect to this rule—whether or no it operate to any great extent as a hardship—whether it be complained of as a grievance by the dissenting minister only, and not by the great bulk of dissenting parents; one thing is beyond all doubt—its effect in Wales has been most injurious to the cause of education. The Reports of the Commissioners, so full of painfully interesting details respecting the mental and moral condition of the poorer classes in Wales generally, furnish abundant evidence of the evil consequences of making education conditional on instruction in the distinctive doctrines of the Church. The following extract from Mr. Johnson's Report is calculated to excite many a sorrowful and humiliating reflection:—

“The wealthy classes who contribute towards education belong to the Established Church; the poor who are to be educated are Dissenters. The former will not aid in supporting neutral schools; the poor withhold their children from such schools as require conformity to the Established Church. The effects are seen in the co-existence of two classes of schools, both of which are rendered futile—the Church Schools, supported by the rich, which are thinly attended, and that by the extreme poor; and private adventure schools, supported by the mass of the poorer classes at an exorbitant expense, and so utterly useless that nothing can account for their existence—except the unhealthy division of society, which prevents the rich and poor from co-operating. The Church schools, too

4  
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dissenting parents. The masters  
slender pittance, are induced to  
fringement of the rules which re  
religion, and allow the parents (.  
sometimes with the consent of the  
chase exemption for a small gratui  
not afford it being compelled to co  
in case of refusal. Where, howe  
impartially enforced, or the parent  
chase exemption, a compromise follo  
are allowed to learn the Church C  
attend Church, so long as they rem  
are cautioned by their parents ne  
Catechism, and to return to their pe  
soon as they have finished schoolin  
object is obtained by both parties.  
in fact, is given, allowing conform  
religion during the period requir  
provided they allow no in

Surely, my Lord, any form of instruction, with the Bible as its groundwork, is better than such a mockery of "sound learning and religious education."

There can be no question that the National Society, so long as it derives its funds from voluntary contributions alone, has a perfect right to confine the benefit of its teaching to children belonging to the Establishment. Admitting this to the fullest extent, I would yet respectfully observe, that it is one thing to possess a right, and another to exercise it in the wisest and most beneficial manner. They who profess the same religious doctrines with ourselves, ought reasonably to be the chief objects of our beneficence. But to confine it within those bounds, is little in accordance with the spirit of universal benevolence which Christianity breathes. While those who are of the household of faith are to be the especial recipients of our bounty, we are commanded to do good unto all men. Amid the multifarious social ills which are preying upon us, shall we refuse to lend a helping hand to abate them, in every case where we cannot at the same time disseminate the distinctive doctrines of our Church? Are we to entrench ourselves within a right, when the welfare temporal and eternal of a fellow creature may be at stake? For I must be allowed to repeat it; if through the enforcement of this rule we bar the entrance, in any single case, to the Church School, and there is no other school within reach, we deprive a dissenting child of all education whatsoever.

Hitherto I have supposed that the National Society



sources of the State. From the nature of the thing, so, it partakes of the character of a public institution, in the strict acceptation of that term; and therefore, only reasonable and just taxes may be levied towards its support, all schools being general benefits, upon compliance with the mental condition annexed to the charter, and approved by the Committee of Council; the teaching of a portion of the Scriptures shall be the instruction in the School."

To exclude any class of children from the School, thus maintained in part at the public expense, is a hardship not only in places where there is no other school the children would be deprived of all instruction whatever, but also in places where there are schools of other denomination, but which, from distance or any other cause, cannot be accessible to the children.

This restriction is not intended to be

equal evil to the Church. But this it would be difficult, not to say impossible to prove. Throw open our schools to-morrow, and we should not withhold the Catechism from a single child belonging to our own communion. We should still continue to teach it in the Day School. We should still explain and illustrate it in the Sunday School. We should still, in obedience to the Rubric, and in conformity with ancient custom, make it the basis of our Catechetical instruction in Church. While we treated with Christian forbearance the religious scruples of others, we should make no surrender or even compromise of our own principles. The exempting certain children from attendance at a particular lesson might possibly be productive of some degree of inconvenience, as regards school arrangements. This, however, might readily be obviated, by fixing the hour for the Catechism lesson either at the beginning or the end of the day. But ought a mere inconvenience to be weighed for one instant against the irreparable injury which a child would suffer if, through our means, deprived altogether of education?

If we inquire into the general usage with respect to attendance on religious instruction, it will be found that, of all the educational bodies in the empire, the National Society alone imposes any restriction on the freedom of admission to its schools.

I begin with the parochial schools of Scotland, which have exerted so beneficial an influence on the moral character of the population. In those schools the masters are required to cause the Bible to be

ment Scottish teacher, informs us,  
which deserves especial attention.

*schools on the religious instruction*

While there is nothing in the sha  
far as I know, on the subject, the us

Next let us advert to the Natic  
land, the signal success of which  
attested by one of their most perse  
guished opponents.<sup>6</sup>

“The patrons of the several scho  
of appointing such religious instruc  
think proper to be given therein, p  
school be open to children of all  
due regard be had to parental righ  
that accordingly no child be compe  
be present at, any religious instruct  
parents or guardians object, and tl

giving it be so fixed that no child shall be thereby, in effect, excluded directly or indirectly from the other advantages which the school affords. Subject to this, religious instruction may be given either during the fixed school hours, or otherwise.”<sup>a</sup>

Nor has any exclusive test been adopted even by The Church Education Society for Ireland.

“The immediate and chief object of this Society is to afford the means of Religious Education to the poorer children of our communion. But an earnest desire being felt to extend the benefits of the Schools to other communions also, not only is the freest access given to all, but everything is done, which can be done consistently with principle, to take away every hindrance to their availing themselves of the advantages they afford. While the reading of the Bible forms a portion of the business of the schools, in which all children, when qualified, are expected to take a part, the formularies of the Church are required to be learned by none except the children of its own members.”<sup>b</sup>

It may possibly be said, that this regulation is justified by the peculiar circumstances of Ireland; but are there, I would suggest, in England at the present moment no peculiar circumstances, which urgently demand the adoption of a similar rule?

To come now to our own country.

<sup>a</sup> Rules and Regulations of the Commissioners.

<sup>b</sup> Address of Nine Prelates of the Church of Ireland.—See 39th *Report of London Hibernian Society*, p. 18.

Finally, in the British and F  
fundamental rule of the Society of  
of denominational Catechisms *in so*  
*a part of ordinary school instructi*  
prevent any separate arrangement  
choose to make for teaching doct  
*out of school hours*, to children w  
send them for this purpose.<sup>b</sup>

It is generally understood—inde  
heard the fact called in question—  
the Church, and the great majorit  
Laity as well as Clergy, acquiesce  
tional enactments of Sir James Grah  
in 1843.<sup>c</sup>

I beg leave to call your Lordship'  
following clause of that Bill.<sup>d</sup>

“And be it enacted, that if th

<sup>b</sup> The Child of T . . .

scholar shall notify to the master or trustees that he desires that such scholar may not be present at the periods when such Catechism or portions of the liturgy are taught as aforesaid, it shall not be lawful for any person to compel such child to be present at such periods, nor to punish or otherwise molest such child for not being present; and it shall not be lawful for the trustees or master of the said school, or any other person, to give or permit to be given in the said school any religious instruction to such scholar, except the reading and teaching of the Holy Scriptures as hereinbefore appointed; and such child shall, at the periods when such Catechism or portions of the liturgy are taught as aforesaid, be instructed in some other branch of knowledge taught in the school."

These are, in substance, the provisions for which I am humbly contending. Why, I respectfully ask, should the National Society refuse to embody in its constitution that *principle*, which has already received the sanction of the Church? Is there aught in the social, the political, or the religious aspect of the times, that should induce it to withhold in 1848 a concession which it was judged expedient to make in 1843?

Allow me now to recal to your Lordship's recollection the peculiar circumstances under which the rule of exclusion was originally laid down.

It was adopted, not only before any public grant had been dreamed of for the promotion of popular education, but before the subject itself had begun to awaken any interest in the Government of the day.

It was adopted at a time, when the majority of pious and even of enlightened men regarded with suspicion and alarm the proposal to educate the lower classes. Above all, it was adopted at a juncture when sectarian animosity was at its height, when there was the keenest rivalry between the Bell and the Lancasterian systems, and when the cause of education was desecrated, by being made the battle-field between Churchman and Dissenter. More generous and exalted views are now prevalent, I am thankful to say, among the wise, the moderate, and the good, of all religious persuasions. The mental and moral elevation of the masses is no longer looked upon as an object of dread, but as the safeguard, under the Divine blessing, of our social system. It is by Statesmen no longer treated as a party question, but as the foremost of national questions. It is no longer a conflict between the Church and Dissent, but between Christianity and Heathenism.

Now that the circumstances have undergone so complete a change, now that men of all parties and denominations are vying with one another in efforts to ameliorate the condition of the labouring classes, surely it were an act of wisdom and of charity to relax the rule. By so doing, we should confer an essential benefit on the children of the poor; we should disarm the jealousy, and assuage the bitterness, of religious faction; we should, by widening the basis of our institution, add materially to its strength; and finally, we should prepare the way for the education of the people, upon a great and comprehensive plan.

I have endeavoured to show, that the removal of this restriction would be attended with no ill effects to the children of our own communion. Nor is there the remotest risk of any injury resulting to the Church. Her interests must always be identical with those of Christianity itself. And if one lesson more than another is impressed upon us by the study of ecclesiastical history, it is, that Christianity has never suffered from the most enlarged toleration. The true strength of the Church lies not in disabling laws, but in the purity of her doctrines, and in the piety, the learning, and the devoted zeal of her ministers. These are her legitimate claims to the respect and affection of the people. These are the chief sources of her vigorous vitality at the present moment, despite the unhappy dissensions in her bosom. And a concession, recommended alike by worldly prudence and by Christian charity, would most assuredly not tend to weaken her.

So long as this rule is maintained, we shall never obtain credit for genuine, disinterested, hearty zeal in the cause of education. It will always be imputed to us, however unjustly, that we are more eager to make proselytes, than to reclaim the vicious and to instruct the ignorant. Beyond all doubt, we would most joyfully welcome back to the Church those who have forsaken her, either through misapprehension, or prejudice, or, it may be, our own short-comings in times past. But it is by shedding the light of gospel truth on the stray members of our flock, not by keeping



the diversities of opinion among  
relating almost entirely to question  
This circumstance may suggest to  
whether we are not, in effect, pre-  
checking the growth of dissent, in  
Bible from the children of those  
scruples prevent them from receiving

While I advocate, therefore, this  
plain Christian precept which commands  
the good we can do to our fellow-creatures  
it on the lower ground of worldly  
the children of Dissenters ignorant,  
convince them of their errors. To secure  
all participation in a public benefit,  
remove their prejudices. To drive  
schools, is not the way to win them back.  
What, my Lord, must be the necessity  
of our continuing to repel those who  
gratefully receive all that we can do for them.

tone of emulation might possibly be thus excited between the schools of the Church and those of the congregation. But in small and thinly-peopled places, the competition would degenerate into a petty and jealous rivalry; and those resources which, judiciously applied, would suffice to maintain a single school in a state of efficiency, would be wasted in the futile attempt to support two.

There is yet another consideration, bearing on the prudential view of this question, which is deserving of serious attention.

Every one at all acquainted with the actual condition of the people must allow, that our means for extirpating ignorance and vice are utterly disproportionate to the necessities of the case. The inadequacy of the purely voluntary principle is universally admitted by Churchmen, and is frankly acknowledged by many of the most eminent Nonconformists themselves. Such as had still any lingering doubts on the subject must, one would think, have had them effectually dispelled upon reading the Reports of the Commissioners of Inquiry into the State of Education in Wales.\* Even as an auxiliary, the voluntary principle must not be too confidently relied on. There is good reason to doubt whether, by our utmost exertions, we shall ever succeed in raising the sum which is necessary to carry

\* Persons of all religious denominations concur in pronouncing the attempt to educate on the voluntary principle perfectly hopeless.—See especially Mr. Symons's Rep., Part ii. pp. 18, 19, &c.

out fully the new Minutes.<sup>a</sup> The present plan, according to which the State proportions its assistance to the amount of voluntary contributions, can hardly be considered as any other than a temporary expedient, forced upon us by the political and religious circumstances of the country. Prompter and more energetic action must be resorted to, if we would grapple successfully with the mighty evils which oppress us. We must discard the economical principle of supply and demand, as wholly inapplicable to moral and spiritual wants. In the words of Chalmers, we must act aggressively on the masses. When a locality is destitute of schools, and the requisite funds for building and supporting them cannot be raised, either through the inability of the poor, or the disinclination of the rich, an urgent case arises for the intervention of the legislature. The only question is, how this ought to be exercised. To have a system of education worthy of the name, a local assessment would seem to be indispensable. The mode of levying and administering such an assessment is a matter of detail, and involves many considerations into which it is not my province to enter. Though fully sensible of the practical difficulties which such a measure would involve, I am nevertheless persuaded that, sooner or later, we must have recourse a school-rate of one kind or another.<sup>b</sup> It might be

<sup>a</sup> The salaries of stipendiary monitors and pupil teachers, and the gratuities and pensions to meritorious schoolmasters and schoolmistresses, are independent of voluntary contribution.

<sup>b</sup> The principle of a school-rate is by no means new. It was

expedient, in the first instance, simply to empower parishes to tax themselves, to a certain amount, and under certain conditions, for educational purposes; the exercise of any such power being subject to the control of a central authority in order to check local abuses.

It is no valid objection to a legal assessment for education, that it would operate to the discouragement of individual beneficence. There will always be ample scope for the exercise of private liberality in this, as in every other, department of charity. The established provision for the poor is a case directly in point. No one can with any truth allege, that this has had the effect of drying up the sources of private charity. But a still more apposite instance is furnished by Scotland. In that country a parochial rate for education, levied upon the heritors or landowners, has been in force for upwards of a century and a half; yet nowhere have more munificent donations been made by private individuals for the promotion of education.

To execute our plans, then, for the moral and intellectual improvement of the people, we must either have augmented parliamentary grants, or a local assessment, or both conjointly. Could we, with any propriety, or with any prospect of success, appeal to

introduced into the Education bills brought forward at different times by Lord Brougham, and also into Sir James Graham's bill of 1843.

The objections to a school-rate are stated in Mr. Dunn's Evidence in the Report of Educ. Comm. 1838; pp. 54 & 55.

Parliament for assistance in either of these ways, if we continued to uphold an exclusive principle, at variance with the general tenor of our legislation, and with that enlightened toleration, which is the glory and the strength of the Church of England?

My Lord, when we look around upon the moral wastes which are still the reproach of this Christian land; when we examine the dismal records of ignorance and crime which are continually startling the public mind; when we know that in the metropolis itself, and within the very precincts of its cathedrals, there are multitudes of human beings so sunk below the level of Christian civilization, as never even to have heard of the Saviour who died for them; ought it not to be our paramount object to spread abroad the knowledge of the everlasting Gospel?<sup>a</sup> In such a state of things, can it be deemed inconsistent with the firmest attachment to our own church to cast aside every thought, save that of turning men from ignorance to knowledge, from vice to virtue, from the power of Satan unto God? If we cannot make all our scholars churchmen, let us, at least, as we revere our common faith, and as we love our common country,

<sup>a</sup> The "Gaol Returns," just published by order of the House of Commons, contain ample evidence of the practical heathenism still suffered to exist among us. I would beg particularly to direct attention to the Chaplain's Report,

1st. Of the Gaol and House of Correction at Reading, p. 8.

2nd. Of the New Bailey House of Correction, Manchester, p. 96.

3rd. Of the Preston House of Correction, p. 98.

strive to make them Christians, and virtuous members of society. Every motive of prudence, every sentiment of charity, constrains us to throw open our schools to all who receive the Bible: inviting them to profit by our instruction in what we believe to be the true faith, but, with a respect for the right of private judgment, giving freely and ungrudgingly all that they can conscientiously accept.

Even supposing that we carry out our present plan to its utmost extent, how insignificant a portion shall we have accomplished of the great work that is before us. Far, indeed, are we yet from realizing a just conception of the duty we owe to the children of the poor. It is a misnomer to dignify with the sounding phrase of National Education the meagre instruction which we have been so long and so hopelessly struggling to bestow upon them. Taken at the best, our efforts aim no higher than to impart the bare elements of secular and scriptural knowledge to children of ten or eleven years old.

And with what measure of success even this humble attempt has been crowned, may be judged by the following extracts from Mr. Watkins' Report on the Schools of the Northern District.\*

“It must, I think, be confessed that these returns give, in many important points, an unsatisfactory answer to the question as to progress. For instance, it is unsatisfactory that half of the whole number of children, in our elementary schools, have no higher

\* M.C.C. 1846, vol. i. pp. 405, 408.

to repeat the Catechism, making :  
the tender years of many of the  
hardly creditable to our Church Scho

Again, under the term 'writing or  
efforts of the child's hand, whether in  
or curves, in single letters or fig  
Nearly one-half the children, it seems,  
inability of the scanty school-funds to  
and pencils, or from other and less ex  
have not arrived at this step of their i

We find also only about one in every  
writing in a copy-book. The quality  
is better, on the whole, than the qual  
latter ought surely to be considerably  
those also (1 in  $3\frac{1}{4}$ ) who profess the  
arithmetic, a great number cannot do a  
addition without help. . . .

"There is doubtless a very low stan  
ments in the majority of these National

power of writing fairly, of spelling tolerably, of working sums in the four compound rules and simple proportion, with a mere smattering of English history, grammar and geography; and that these subjects are attempted only by two (rarely by three) classes in each school, and, which is very important to observe, are not, as a general rule, intelligently received by half the children in each of those classes.”<sup>a</sup>

At the age above mentioned, and frequently even sooner, our little scholars are thrown upon the world. They seldom, as has been already observed, remain at school above a year and a half on the average; and even during this brief space, their attendance is generally irregular. Any moral benefit they may receive from this short and interrupted course of instruction, is counteracted by the noxious influences by which they are surrounded when out of school. I speak not of the pollution of the street only, but still more of that of the cottage: for it cannot be disguised, that whatever virtuous impressions may be imbibed in the school, are too often effaced when the children return to the society of their parents.<sup>b</sup>

<sup>a</sup> To much the same effect is Mr. Moseley’s Report on the Schools of the Midland District.—M.C.C. 1846, vol. i. pp. 162, 163.

<sup>b</sup> The remarks of Mr. Tufnell, when treating of the education of pauper children, are applicable, in too many instances, to the children of the poor generally.—See *Reports on the Training of Pauper Children*, p. 356.

We are, therefore, more pained than surprised, when informed by Mr. Watkins, that it is no unusual thing for a teacher to say,



And just at that critical period, when their ripening faculties are most susceptible of culture, and their awakening passions stand most in need of religious and moral restraint, they are transferred from the school to the field or the factory, and are exposed to the contamination of an ignorant and vicious adult population. Until means can be devised for extending the term of elementary instruction, some provision is imperatively required for carrying on the education of the young, after they have been thus prematurely removed from the day school.

In the existing economical state of the country, it is impossible for parents to keep their children at school beyond the time when they can earn a small pittance by their labour. This it is in vain to lament. It is, generally speaking, not so much the fault as the misfortune of the poor, and our duty clearly is, to contrive a remedy, by accommodating our educational means to their necessities. In some cases we might induce parents to send their children to school for an hour or two during some part of the day.\* In others we might establish evening schools; which have succeeded beyond expectation, wherever they have had a fair

in answer to some remark of the Inspector, "That was a steady boy, sir, and was getting on well; but he has been at home for some time, and is no better for it."—M.C.C. 1846, vol. i. 443.

\* Why, when every individual among the working classes begins his appointed labour betimes in the morning, should the children alone be suffered to waste in idleness the hours before nine o'clock? What is to hinder them from going to school, as early as to agricultural or factory employment?

trial.<sup>a</sup> And in all cases we might avail ourselves of the Sunday school, which is capable of being made an instrument of inestimable benefit to those who have been early deprived of the advantages of the day school. But the true remedy for this evil, whether it arises from the poverty or the neglect of parents, is to make them practically feel, that a prolonged attendance at school would be profitable not only to their children, but to themselves. One mode of effecting this is by blending with the ordinary branches of school learning instruction in the arts of industry: gardening, farming, and the minor trades for boys; and household economy for girls. Industrial employment is a grateful relief from sedentary application; it is a valuable instrument of moral training; and, what is most to our present purpose, it may be rendered directly conducive to the service of the parent. Once let a working man be made sensible that his child, by remaining in school, is not merely improving in "learning," but is acquiring such an amount of practical knowledge as may be turned to pecuniary advantage, and this formidable obstacle to the elementary education of the poor will quickly disappear. Not the least valuable part of the Government measure is that, in which provision is made for the introduction of works of industry into the day schools of the labouring classes.<sup>b</sup>

<sup>a</sup> See 13th and 14th Reports of Commissioners of National Education in Ireland.

<sup>b</sup> See the latter part of Chapter iii. of "The School in its Relations, &c."

in the case of children of tender age, certain kinds of labour. How much farther practicable by legislative enactment to same principle, especially in the rural question of great delicacy. Much, however, has been done towards the attainment of this by the spontaneous exertions of individuals. It should be allowed to bring under the notice of an important movement in this direction, which has just been made in Manchester. Through the efforts of certain of the clergy and laity, and a large majority of the most respectable, have been induced publicly to announce, to the effect, *that in the appointment of children and young persons to their establishments, those young persons should be preferred who can read and write.* It is to be desired that this example may be followed in all our great marts of industry and trade. Even then if our system of education

upon us to turn to advantage the infant period; especially as it is during those impressible years that the habits are most easily formed. The business of moral training cannot be too early begun. Nothing is so easy as to mould the disposition of the infant; neglect this, and nothing is so difficult as to repress the vicious propensities that have sprung up in the child. The growing appreciation of the Infant School system is one of the most satisfactory evidences of the value which the working classes are beginning to attach to education.<sup>a</sup> Parents have not been backward in seizing the advantages held out to them. They would gratefully accept them, if the Infant School were nothing more than a spacious and cheerful nursery, where their little ones would be amused and taken care of, during the hours when they themselves were at work. But when, in addition to this, they find their infants improved in temper, and rendered docile, observant, and intelligent, they must be blind indeed, if they were not keenly alive to the benefits conferred by these invaluable institutions.<sup>b</sup>

<sup>a</sup> The almost total want of Infant Schools, and the great neglect of Female Education, are justly assigned by Mr. Symons as among the chief causes of the lamentable ignorance of the people in Wales.—*See Reports*, Part ii. p. 15.

<sup>b</sup> A circumstance of great interest to all who are impressed with the vast importance of Infant Schools, is mentioned in an official Letter addressed to the Secretary of the Home and Colonial Society. Infant Schools, and the Institutions for training their Teachers, were intended, although not expressly so stated in the Minutes, to be included under Girls'

which they have undergone. What  
lamentable than to see a child removed  
from a well-conducted infant school, where his faculties  
judiciously exercised, his moral sense  
his religious feeling developed, to an  
of the old class, where the discipline  
instruction meagre and mechanical, and  
and moral training is utterly unknown.  
from the infant school all the benefits  
capable of yielding, it is highly desirable  
juvenile school should be in direct connexion  
the one being considered as preparatory  
so that the same system should be  
the latter, only on a more enlarged scale.  
The beneficial effects of such a connexion are  
in the Model Schools of the Home and  
whose general method of instruction  
commended by Mr. Tufnell, in his Report  
Committee of Council.

servations to a close, to lay before you, in a few words, our actual position with reference to the all-important question of Popular Education.

For the present it would seem that the hope of carrying a great legislative measure must be relinquished. Every religious communion asserts the right of imparting to its children religious instruction, in conformity with its own principles. No general scheme could be so nicely adjusted, as at once to comprise the various denominations, and yet to allow each, within the School and during School hours, to inculcate its peculiar doctrines.

It is in vain, therefore, that we waste our time in efforts to attain what is manifestly beyond our reach. We must concentrate our energies in improving to the utmost the existing system, imperfect as it confessedly is; trusting that the progress of public opinion will gradually remove every barrier to a more comprehensive scheme.

The idea of an exclusively Church System of Education has been wisely abandoned. A purely secular system is out of the question. A system that should obtain the concurrence of those who hold extreme opinions is an impossibility. But a system, consonant with religious liberty, approved by the great majority of religious men throughout the kingdom, and having the indispensable support of the Established Church, appears to be quite practicable. The choice, under existing circumstances, lies between some such system and none at all. Only let the Church concede un-

restricted admission to her Schools, and we should then have the basis on which, at no distant period, might be reared a truly National System of Education.

I have the honour to be,

My Lord Bishop,

Your Lordship's most faithful and obedient servant,

H. P. HAMILTON.

Wath Rectory, August 22, 1848.

**AN EPITOME**  
**OF THE**  
**BAMPTON LECTURES**

**OF THE**  
**REV. DR. HAMPDEN.**

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**MDCCKLVIII.**





## NOTICE.

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THIS Epitome is drawn up, in the words of Dr. Hampden himself, for the sake of those who have not, and cannot obtain, his Lectures, and are anxious to form an opinion for themselves. The sense of each Lecture is here faithfully brought before the reader, in the Author's own phraseology, without note or comment, so that justice may be done to the drift of the whole course.

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### *The Subjects of the Lectures.*

- LECTURE I.** On the *Origin* of the Scholastic Theology.  
II. On the *Formation* of its Aristotelic, in place of a Platonic, character.  
III. On the Controversies respecting the **TRINITY**.  
IV. On the Controversies respecting Predestination and **GRACE**.  
V. On the Controversies respecting Original Sin, **JUSTIFICATION**, and Atonement.  
VI. On the Controversies respecting **MORALS** and Moral Theology.  
VII. On the Controversies respecting the **SACRAMENTS**.  
VIII. On the Controversies respecting **DOGMATIC** Theology in general.

# EPITOME OF THE BAMPTON LECTURES.

## LECTURE I.

[The figures down the sides of the pages refer to the Edition of 1833.]

THE force of Vice, and the force of Theory, both have played a considerable part in the drama of Religion. 5

My purpose is, to present to your notice the *force of Theory*. I do not indeed propose to enter into the whole of so large an inquiry. It is to the effect of the *Scholastic Philosophy* that I have directed my attention. 6 7

Christianity had to struggle in its infancy against the theology of the School of Alexandria. The accommodation which took place between the theories of that philosophy and the doctrines of the faith, proved a snare to members of the Church. The faith itself was at stake in the endeavour to disentangle it from the theories of Platonizing Christians. 10

It has not been so with regard to the Aristotelic philosophy. No compromise took place between its disciples and the members of the Church. But the logic of Aristotle continued from time to time to supply the heretic with arms. The Church learned the arts of its impugners. Aristotle's philosophy has thus been more silently insinuated into and spread over the whole system of the Christian doctrine. 11 12

The *Origin* of the Scholastic philosophy carries back our inquiry to the causes of the ascendancy of the Latin Clergy over the Greek. The Latins have not that splendid array of philosophical writings which the catalogue of the Greek Fathers exhibits: they had sagacious political leaders; popular advocates of the sacred cause, men of extensive knowledge of the world. The practical character shows itself in them as the prominent feature. Further; the state of society in the Western Empire was such as practically to promote the influence of the Latin Clergy.—Jerome indeed failed to introduce a Roman philosophical literature. The state of the Latin portion of the Roman Empire did not admit of it. A practical theology was wanted. 14 16 22 27

I refer to the ascendancy of the Latin Church, and its practical character, because the account of this influence of the Latins is the true view of the origin of the Scholastic philosophy historically. We may discover in it

two principles in action; the maintenance of an internal principle of Liberty; and the foundation of a spiritual Authority. I must point out how the scholastic philosophy resulted out of that state of things in the Latin Church. 30

After the first half of the fifth century, the management of the people constituted the chief employment of the Latin Clergy. They succeeded, in the course of a hundred and fifty years, in converting all the schools of learning established by the emperors into Ecclesiastical societies; and all literature and science into Theology; so that at the opening of the eighth century, the monotony of Religious rule pervaded all things. Theology alone had the secret on which the vitality of Power depended. The great number of schools, instituted or revived by Charlemagne, are evidences of the ascendancy of the theological Power. 31 33

The Predestinarian dispute of the ninth century gives us a lively picture of the conflict between the liberty of private Reason and the spiritual ascendancy of the Church. From this period we may notice a continued struggle in the Latin Church between the advocates of Reason and the advocates of Authority. Obedience was become another word for Religion. The schools of philosophy were entirely in the hands of the Ecclesiastical Power. 35 36 38

Throughout the whole period when the Scholastic philosophy may be said to have been growing, we meet with constant disclaimers, on the part of the Church leaders, of the system itself,—a constant appeal to the authority of Scripture and the holy Fathers against the rationalist spirit of the times.—Bernard, and other doctors, declaimed against the importunateness of the speculations of their times. The same effect had taken place in the second and third centuries. The philosophizing divines were continually objected to . . . still the philosophical theology proceeded. 40 42

The work of P. Lombard was exactly such as we might have expected from that conflict between Reason and Authority. The work was probably written in imitation of a treatise of a great Father of the eighth century, John Damascenus, who sets out with the profession that he states “nothing of his own, but only what the holy and wise have taught!” In Lombard, however, there is little of the logical precision by which Damascenus is characterized. 43 44

No sooner was the principle of such a work recognized, than other works, answering to the same requisitions of human reason appeared. The suspicion of originality was fatal to the reputation of the scholastic divine.—“If any man speak, let him speak as the oracles of God!” 46 47

Why this philosophy assumed the particular form which it actually exhibits; by what means Aristotle became the great oracle of the system, superseding the more theological

philosophy of Plato ; and the general character imparted to the theology of the Western Church from that circumstance ; will be the subjects of consideration in my next Lecture.

47

## LECTURE II.

We are now tracing to its Origin that speculative, logical Christianity, which survives among us at this day ; and which has been in all ages, as I conceive, the principal obstacle to the union and peace of the Church of CHRIST.

53

To logical science, in fact, simply considered as an art of defence, as a discipline of disputation applicable to the service of orthodoxy, there never was any indisposition on the part of the Church authorities. As defenders of the sacred truth, they would justify themselves by an appeal to the manner and precept of the Scriptures. The Epistles, it would be observed, were for the most part works of controversy. S. Paul is particularly represented as "*disputing* and persuading the things concerning the kingdom of God."—Again, in the conversation of our SAVIOUR Himself, traces would be found of the argumentative method of the ancient schools : *such* is the dilemma respecting "the Baptism of John ;" and the mode in which CHRIST sometimes *evades* a particular question, by putting a question in return. To the same purpose would be interpreted the description of Him in the midst of the Jewish doctors, "hearing them, and asking them questions."—Still more the word "Logos" has been singled out for especial remark.

58

59

It would appear, therefore, that the authorities of the Church objected only to the employment of Logic in discussing questions of religion, when it was found a vexatious instrument in the hands of the heretic.

60

Aristotle had been the great authority of some of the heretics. The speculations on the TRINITY introduced by Artemon and Theodotus in the second century, were imputed to their study of Aristotle, amongst others.—So far, indeed, as philosophy was owned by the Church, the Platonism of Alexandria was the ascendant system. But whilst the Church authorities so jealously watched the progress of logical speculation, the writings themselves of Aristotle lay under a ban of exclusion. This ignorance, and the fear resulting from it, were the result of that state of things in which we find the Latin Church after the division of the empire. Reduced to an unfrequent intercourse with Greece, the Latins lost not only the knowledge but the language itself of philosophy.—Philosophy afterwards raised a complex system, which combined the logic and metaphysics of Aristotle with the fundamental theories of Plato.

61

65

In the thirteenth century a marked improvement is discernible.—The question debated between the Nominalists and Realists . . . is of great importance. The triumph of Realism is particularly to be noticed.

This theory made the whole of our knowledge deducible from abstract ideas. Men were thus taught to distrust their senses.—Nominalism led the way to the testimony of the senses and the conclusions of experience. The triumph of Realism is coincident with the ascendancy of the Scholastic philosophy.

The tendency of the whole system was to erect Theology into a perfect Science.

When Theology was exalted into the rank of the queen-science, and viewed as containing in it the primary Truths of all knowledge, it was conceived to be the science of necessary principles on which the mind reposed with the fullest confidence! To the Christian speculator these principles would of course be sought nowhere but in the Divine Being.

But where was the evidence or criterion of the *Truth* of those principles?—The nature of God as He is in Himself is incomprehensible by the human faculties.

The principle of Faith answered the purpose of solving this speculative difficulty. . . . If we *believe* the Scripture, we may proceed to the exercise of understanding: the authority of Revelation being *conceded*, reason has its ground on which it may build its airy edifice of Speculation.

The mystical and the practical character originally belonging to the Latin theology still continued, when it assumed the definite form of Scholasticism. . . . We bow in awe before the mystic forms of a piety and spirituality which cast their solemn shadows over the scene of disputation! But Logical philosophy will be concerned in finding out what may be unanswerably *affirmed*, rather than what is the *fact and truth* of things.

It may further illustrate the character of a Theology so constructed, to observe the analogy which it bears to the personifications of heathen mythology.

If we regard the Scriptures, in the way of the schoolmen, as having God for their proper subject . . . our business is to collect into one theory every scattered intimation of the Divine Being and Attributes.

If on the contrary we take the nature and condition of *man* under Divine Providence as the great subject of our sacred books, . . . hence results an historical theology, a register as it were of the religious conduct of *man*.

The schoolmen had a high veneration for the text of Scripture—not inferior I should say to that of the most zealous Protestant: but it was an improperly directed veneration—a reception of the Scripture (not simply as the

living Word of God, but) as containing the sacred propositions of inspired wisdom. The ethical nature of the Scriptures had been insufficiently attended to by the schools, eager to erect their Theology into a philosophy of the Divine Being. 91 98

Happily for the ethical system of the schools, the chief human authority followed was that of Aristotle.—The sound sense of this philosopher was a correction to the extravagancies into which their religious enthusiasm, or their speculative refinement separately might have carried them. 94

### LECTURE III.

The consideration of the Trinitarian controversies naturally takes the lead in the present inquiry. These are the least peculiar to the Scholastic theology in point of fact. . . . They could not fail to attract the attention of the Greeks at an earlier period. 99

Adequately to conceive the interest of theological questions at the period when they were most keenly agitated, we must view them under a *political* aspect.—The abstract curiosity of the question itself, and the habits of disputation, contributed to give an eagerness and a relish to controversies on the TRINITY. But these are not sufficient to account for the origin and extent of the interest excited. 100

What rendered these disputes more complex was, that they were agitated whilst, as yet, an active intercourse existed between the Greek and Latin Churches. The Latins were unable to reach the precision and compass of the Greek phraseology.—So great indeed was the impediment arising from the varied use of terms, (when the whole discussion was *fundamentally* dialectical,) that the measure of accommodation between those who really agreed with each other would probably have failed in any other hands than those of Athanasius: . . . . that intrepid advocate of orthodoxy, during his second exile, with the sagacity of a Themistocles, studied the language of the party on whose protection he had thrown himself. He secured a standard of orthodoxy for future ages of disputation. But though Athanasius was the author of that theoretic agreement which established the orthodox doctrine of the TRINITY; the maintenance and diffusion of it were owing principally to the active zeal of the Latin Clergy. 103 104

The living disputants who gave the mould to these controversies had long passed away, when, with the rise of intellectual activity in Europe, the quarrels of other days were resuscitated in the schools.—In the volumes of the Scholastic Divines we contemplate the phantoms of the 106

departed acting over in solemn representation the pastimes of their real life.

When the philosopher is also a theologian, and carries up his speculation from the human mind to the Divine, the theory of material nature resolves itself into the pure existence of the Divine Being, in Whose intellect are the immutable first principles of all existing things. According to the schoolmen, all power, or wisdom, or goodness in the Universe were actual derivations of qualities intrinsically residing in God! . . . So again, the relations of human life, as that of Father and Son, were founded on their archetypes in God!

A philosophy of this kind led them to seek their definitions of the Being and attributes of God, in the phenomena of the material world. Such was their construction of the Apostle's words "the invisible things of God are clearly seen—being understood by the things that are made—even His Eternal Power and GODHEAD:" words perhaps in themselves *borrowed from the Platonic Philosophy*.

The Being of God, considered abstractedly from the works of His Creation, presented to the philosopher that *ultimate abstraction* of which he was in quest.

In the human mind there were two distinct classes of facts observed—the intellectual principles and the moral: the intellectual principle was prior in order to the moral. Thus far the speculation was merely human: the transition was easy from the human to the divine. These principles accordingly were the true analogies corresponding to the Scripture designation of the great Divine Cause of all things, under the Name of the FATHER, SON, and HOLY SPIRIT.

In this speculation there is certainly a great deal of the language of Platonism. (In the *Timæus*, we find the term "Only Begotten.")—But though there is a Platonic under-current of thought in the scholastic theory, the application of the theory is Aristotelic.—The schoolmen considered the Being of God, as the principle of efficiency—the Cause from which all effects proceeded. The orthodox theory of the TRINITY, accordingly consisted of an exact view of the principle of Causation. The Sabellian *Union* viewed the cause *in the act of transition* into effect. It supposed the Divine Being to be a vast tide of efflux and reflux—FATHER, SON, and HOLY GHOST. The Arian regarded the SON as an effect *produced* by the FATHER, and the HOLY GHOST by the SON. The heterodox failed in speculation concerning the principle of Causation. They did not contemplate It in the ultimate evanescent state.

Origen indeed attributes the rise of all heresies to the *anxiety* of inquisitive men to understand the doctrines of



Christianity.—The reputed orthodox, and reputed heretic 119  
 were gradually *forced* into conclusions at which they  
 might at first have revolted. The Arian assumed a dis- 120  
 tinctness between the FATHER and the SON analogous to  
 that between an effect, and its antecedent cause. This in- 121  
 volved the admission that the SON was not coeternal with  
 the FATHER. It might naturally be said that the Sabellian  
 made no *real* distinction between the FATHER, SON and  
 HOLY SPIRIT. He would more and more establish the  
 idea that the Trinitarian distinctions, according to his doc-  
 trine, rested only on definitions.—Notions of materialism 122  
 were mixed up with these theories; even in what was con-  
 sidered the orthodox view. Such texts as “I came forth  
 from the FATHER,” “I proceeded from the FATHER,”  
 were argued from as proofs that the SON was “of the *same*  
 substance” with the FATHER! 123

The manner in which the Unity of GOD was maintained  
 in the different speculations of the Orthodox, the Sabellian,  
 and the Arian, is extremely worthy of observation.—

It was an Unity both physical and logical which the  
 Orthodox held.

The Sabellian taught only a physical Unity.

The Arian only a logical.

125

The Orthodox asserted the entire presence of the GOD-  
 HEAD in each Person. “I am in the FATHER, and the  
 FATHER in Me”; and the mutual Love of the FATHER to  
 the SON *was* the HOLY SPIRIT proceeding from both.—  
 They delighted to speak of the whole TRINITY as Con-  
 substantial (*homoöusion*). The word Substance, by the  
 ambiguity of its meaning, answered the purpose of the  
 Orthodox Latin in asserting at once a *physical and logical*  
 Unity.

The Sabellian, in his application of the term “one sub-  
 stance,” maintained an actual solitude of the Divine  
 Being, a sameness that left only a distinction of *names*. 126

The Arian Unity was logical and not physical. He  
 asserted an unity of thought, will, and action. The term  
 GOD might be applied to each Person as equivalent to  
 Divine *nature*. 128

Dialectical science furnished the expedients, and esta-  
 blished that peculiar phraseology which we now use:  
 “Three Persons and One GOD.” 130

The attributes of GOD exist substantially. The Trinita-  
 rian distinctions exist relatively: the terms FATHER, SON,  
 and SPIRIT denoting *intrinsic relations* in the Divine  
 Being.—To speak of the Divine power or justice in the  
 plural number would be to assert three Beings or Sub-  
 stances in GOD: but there was no impropriety in asserting  
 three *relations*. 131



The Greek, on the principles of his dialectical science, rested the Trinitarian distinctions on the word *Hypostasis*. The Latin had no other word that sufficed to represent this but *Persona*.

132

The discussions on the Incarnation were in like manner partly physical, partly logical. It was attempted to be explained in what way the SON might be said to be generated of the FATHER; whether out of the Substance of God? or out of a common Divinity of which each participates? or by division of the Paternal Substance? whether, further, He is the SON of God by nature, or necessity, or will, or predestination, or adoption?

The confusion of principles of different sciences in these promiscuous inquiries is sufficiently apparent. But it was by *such* a philosophy that the orthodox language was settled, declaring the SON "begotten before all worlds, of one substance with the FATHER!"

137

The account of the Incarnation itself was more peculiarly logical. The notion was, that the animating principle was infused into the human body.—That souls were consubstantial with the Deity was an ancient Pythagorean notion that survived in the Church. The opinion attributed to Apollinarius was, that the Divinity was the animating principle of CHRIST.

138

The peculiarly logical part of the inquiry appears in the controversy between the Orthodox and the Nestorians and Eutychians.—The disputes at the same time were in many points *merely verbal*: the controversialists reasoning about words which they took in different senses.

139

The controversies respecting the HOLY SPIRIT became more dialectical in their progress. At first the Latins were content to speak of the HOLY SPIRIT as the mutual LOVE of the FATHER and SON.—The heresy of Macedonius was only a form of Arianism.

141

Aquinas attributes to the Nestorians as a novel article, that the SPIRIT does not proceed from the SON. The words *Filioque* were sanctioned by the third Synod of Toledo towards the close of the sixth century. The words were confessedly an addition to the Nicene Creed.

143

144

The principal, if not the only, difficulties on the doctrine of the TRINITY, arise from metaphysical considerations.—Perplexities from the nature of number, time, and being . . . . are our stumblingblock.—We are apt to conceive that the Unity must be understood *numerically*. But is this a just notion of the Unity of God? Surely when Moses said, "Hear, O Israel, the LORD our God is ONE LORD," it was *not* meant to convey to Israel *any* speculative notion of the Oneness of the Deity; but *practically* to influence their *minds* in regard to the superstitions from which they had

been brought out. It was no other than the command,  
 “*Thou shalt have no other gods but Me.*” 145

We should acknowledge that it is *quite irrelevant* to our  
 scheme of religion either to demonstrate or to refute any  
 conclusion, from the nature of Unity, concerning any  
 further revelation of the Divine Being. 147

All the theories proposed on the subject are *Trinitarian*  
 in principle. They set out with a Trinitarian hypothesis :  
 (Arians, Sabellians, and Orthodox). One fact is clear  
 through all this labyrinth, that there is *some* extraordinary  
 communication concerning the Divine Being in those  
 Scriptural notices of God which have called forth the  
 curiosity of thinking men in all ages.—To me it matters  
 little, what opinion on this subject has been prior, has  
 been advocated by the shrewdest wit or deepest learning,  
 has been most popular, most extensive in its reception.—  
 The *only* ancient, only Catholic *truth* is the Scriptural  
 fact. 149

I firmly and devoutly believe that Word which has de-  
 clared the Name of the FATHER, and of the SON, and of  
 the HOLY GHOST; but who can pretend to that exactness  
 of thought on the subject on which our technical language  
 is based ? 150

## LECTURE IV.

We now enter on the ground which is more peculiarly  
 that of Scholasticism, where the whole moulding and ulti-  
 mate complexion of the doctrines professed are the work of  
 the African Churches under the management of Augustine. 155

The anarchy of social life in the West might naturally  
 represent itself to the religionist, as well as to the profane,  
 as the dethroning of Providence. At this crisis Pelagianism 156  
 began to make advances in the world, and opinions were  
 disseminated which were regarded as infringements on the  
 great truths of Providence and Grace. 157

The nature and decision of these controversies on Divine  
 and Human agency bespeak entirely the practical theology  
 of the Western Divine. They were of leading importance  
 in relation to the *government of the Church*. Opinions  
 adverse to a belief in the supremacy of Providence might  
 also seduce the hearts of the people from their loyalty to  
 the *sacerdotal ministrations* ! Hence, the known purity of  
 the character of Pelagius could not preserve him from the  
 charge of teaching a doctrine of rebellion against God.  
 Practical men took their measures against *consequences* ;  
 regarding the matter not as a point of disputation, but as  
 a measure of government. 159

are now all agreed among themselves  
the Pelagian controversies there subsists  
of opinion.

In the ninth century, an attempt was  
to introduce the language of philosophy  
to prove against the unfortunate Go  
impossible for the doctrine of Reprobation  
the grounds that death, and sin, and  
nonentities, mere negations, that had not  
therefore could not pre-exist in the mind  
however, was objected to, as a corruption  
of the truth by refinements of reason  
maintained therefore for the doctrines not  
moulded into a system, in connexion with  
of the Divine Being already laid down  
truth.

The ground of the speculation on the  
notion of God, as the principle of Causation  
on the Pelagian question were an  
principle to a particular class of facts, to  
moral and intellectual beings. — A theory  
to be drawn out as to its connexion with  
The schoolmen inquired, how the will  
itself consistently with the free will of man

It was a maxim of their philosophy that  
“moves nothing.” Hence they referred  
the Will rather than to the intellect.

variableness nor shadow of turning." But it was forgotten in the course of inquiry, that the speculation was concerning *the principle of change*,—that it is an endeavour to ascertain some limit to the variable results of the human will, by viewing them in their original Cause, the will of God. Thus when any event or effect is regarded in reference to the will of God, the assertion which it *becomes us to make* respecting it is, that its accomplishment *could not be resisted* or frustrated. The wills of all subordinate agents must work together with that Sovereign will.—But 171  
 take also the Divine intellect into the account, and regard any effect as the simple object of Divine knowledge, and we must say that the effect could not be otherwise. Whatever is known must be fixed and immutable: a conclusion which brings us immediately to a doctrine of Necessity.— 173

Now the schoolmen admitted the uncertainty of human conduct in its dependence on the will of man, but felt bound to reconcile this with the fixedness of those ideal principles from which human actions primarily originated.—They effected the reconciliation thus: Time they regarded as the measure of Motion; Eternity as the measure of permanent Being. Events viewed in connection with the capacities of finite beings develop themselves successively, and are uncertain; but viewed in their preëssentiality before God, Whose eternity admits no succession or change, they are fixed and immutable.—The necessity imputed to the 174  
 objects of Divine knowledge is a consequence from the notion of immutability: the contingency imputed to the facts of human life is the simple evidence of experience. The terms "necessary" and "contingent" express nothing more than laws of thought. The necessity, fixedness, and eternity of the Divine Being, the scholastics attempted to apply to the facts of human experience. 175

The only proper difficulty in the subject of the Divine agency is the fact observable in the world of apparent resistance to the will of God, by the deep and wide prevalence of evil. This difficulty is aggravated by the speculative optimism which seems a fundamental prejudice or instinct of our minds.—The theory of Predestination will illustrate 176  
 this. 177

To understand however the theoretic nature of Predestination we must enter more fully into the ethical speculation. 178

According to the ancient philosophy, the notion of "good" was essentially attached to an object of the will. Whatever was desired was represented to be a *good*, either real or apparent. Now transfer this theory to the Divine Being, and the scholastic view of predestination will be obtained. All exertions of the will of God could be no other than for good. Nothing evil therefore could be referable to God,

chism, maintaining a theory of Divine go naturally felt a strong antipathy to Ma this in his manner of treating the questi gius. The antipathies of Augustine schoolmen. The scholastic doctrine of predestination as a part of Providence, is sophical notions current in the early age

It has been often observed of our s that it is reserved on the subject of Repr cides with the theory of Divine agency Scholastic theology.

In the Scholastic writers, Grace is set of predestination. I will call attention word Grace. We hear of Grace operating Grace preventing and following ; Grace of of condignity. The conception produced these modes of speaking is *erroneous*. Scripture to be "saved by Grace," we a for Grace, and Grace is said to be "giver stances convey a dogmatic impression ; but them more strictly, they resolve themæ modes of speaking. The subdivisions of I have referred, are *expressly taken fro* theology.

Grace is treated of, in this system, as s into the soul. It is first infused as the seed —regenerating the soul. This produces :

mode of thinking is founded on the principles of ancient physical philosophy.

Thus, first; the doctrine of Transmutation was a vital principle of Aristotle. One object might be transmuted into another. This will illustrate the notion of the Christian state under the influence of Grace. We must "be transformed." "The old things must pass away, all things must become new." We must cease to be what we were, and be "new creatures." On this principle the presence of the Grace of God is indispensably necessary to render us "meet for the inheritance of the saints!" It comes and displaces that previous form of unrighteousness which once was our nature. "Except ye be converted and become as little children ye cannot inherit the kingdom of heaven:" we must "bear the image of the heavenly." CHRIST must "be formed in us."

191

But the proper and full solution of the language of the school divines on the doctrines of Grace, is to be found in the refined materialism of the ancient theological philosophy of Nature. Nature was considered an instinctive principle of motion and rest. The Divinity, in the language of Aristotle, is the First Mover, itself unmoved. Hence we find the schoolmen speak of the Deity as pure Act, pure Energy, Power.

194

This was a system of Theism which trembled on the verge of Pantheism. Its ready transition into fatalism is apparent. The distinctness of the Divine agent, and the human recipient was indeed maintained; but the notion of God, as an energy or moving power, entered into all their explanations of the Divine influence on the soul.

So far they were strictly Aristotelic; but with this exception, the Platonic notion of a real participation of Deity pervaded their speculations. This notion more easily fell into the expressions of Scripture.—The Pantheistic notion then of a "participation" of Deity is the fundamental idea of the operation of Grace; and the Aristotelic idea of Motion is the law by which it is explained! Expressions of Scripture also coincided with this; such as "going on to perfection," "growing in grace," "being unmoveable," and "abounding in the work of the LORD." In fact, this system, *made up* of Platonic and Aristotelic views, was regarded as sanctioned by the Apostle in his application of that text of philosophy: "In Him we live and move, and have our being."

197

Now the importance of the consideration of this theory of the Divine predestination may be seen in the fact that it is not at all concerned with explaining the origin of evil; it is only a theory of God's mercy in CHRIST. Our article on Predestination exactly accords with the true scholastic no-

tion, but *I am not prepared to vindicate* its statements, as the proper way in which the Divine predestination and grace should be apprehended. 199

To Scholasticism we trace the origin of such idle questions as, whether predestination is certain, whether there is assurance of salvation, whether the number of the elect is fixed. This shows the evil of *any* speculation on the subject. The dominion of a logical theology is particularly to be dreaded. 200

The desire to establish the name of God as first in the thoughts, *involves men in paradox* on every subordinate subject. 202

Could we read the language of the Apostle Paul without prejudice, I feel persuaded that we should draw *no speculative doctrines of Predestination and Grace*. It is the Charity that never faileth, which he is inculcating, where many have erroneously thought that he was proclaiming the "wonders of Divine knowledge." Banish then the scientific notion of Predestination and Grace. 204

## LECTURE V.

I now come to those views of Human agency which are contained in the doctrines of Original Sin, Faith, Merit, Repentance, Atonement.

In order to the systematic perfection of the scholastic Theology, it was necessary to adjust the speculative views of the truths of Human agency to the previous theories of the Divine.—All that we call human agency is, in the expression of Scholasticism, the Highest Cause acting by secondary causes. But the theology of the schools was the subtle instrument of a theocratic Power; its ambition was to place the first link of the golden chain, from which the heavens and the earth were hung, in the intellectual grasp of the ruler of the Church. 209 212

All those doctrines which concern the agency of man may be classed under the general head of Justification. Justification is the general law by which the Divine energy develops itself in the human agent.—In the analysis of Justification we must explore the principles of human agency.—The difficulty which meets the speculator in the first instance, is to account for the principle of resistance to the will of God. The root of the difficulty was that it seemed impossible to conceive any will whatever as inclined to evil. It was essential to the very nature of will, that its object should be good and, according to the theological philosophy, that this object should be exclusively the *Divine goodness*. 213 215 216

The Scriptures gave a history of the first transgression and declared its perpetuity and universality in the world. They asserted that man came perfect from the hands of the Creator, being formed in the Divine Image, and that his iniquity was a subsequent, acquired, condition of being. The schoolmen set themselves to explain this. 218

The "perfect man," according to Aristotle's theory, became in the scholastic system man as originally created, rightly ordered toward the Supreme good.

"Corruption" is a term of ancient philosophy, denoting the dissolution of the internal nature of a thing. It is opposed to generation or production, signifying that man, as he is evil, is as it were unmade. 219

"Original sin" accordingly is described in negative terms as a want of original justice, or, as in our Ninth Article, a "fault and depravation of nature." This theory involved other theories. Not content with referring to the REDEEMER's love as the simple earnest, in the case of an infant, of the blessedness of *the little innocent*, the theorists sought to bring it under the theory of original sin. Hence the term "propagation." If corruption descended by propagation, then it would exist even in the *guileless infant*! The theory, as thus stated, would be the logical correspondent to the doctrine of Grace. If on the one hand all were "under grace," on the other all would be "concluded under sin!" 221

The Pelagians were not satisfied with this account of the matter; they denied the transmission of evil. Pelagius believed as fully as his opponents, that mankind were in a worse state in consequence of the first sin, but contended that the first sin was hurtful not by propagation but by example. The Pelagians were *right*, so long as they attempted to give a moral account of the fact, and their opponents were wrong, so far as they attempted to give a physical or material account of it. Their theory of human sinfulness sufficiently accounted for the *actual* sins of men, but it left unexplained the *tendency* to sin existing in human nature. It had been well if the orthodox had contented themselves with the *name* of original sin, without analyzing by language the thing denoted by it. 222

Augustine declares the transmission of the material element of corruption from Adam. The expressions of S. Paul, conveying his ideas of the actual depravity of man, in terms of the established philosophy of human nature, were easily laid hold of as confirming this theory of the seat of human frailty. The "flesh lusting against the spirit," and the "spirit against the flesh," corresponds with the struggle conceived by the philosopher between the antagonist principles of our nature. 225

By Original Sin our nature even propagated sinners!



and vigour !

It is probable that Pelagius and Celestius were the first to oppose this material theory.

To form a right conception of the doctrine of Sin, we should view it together with the doctrine of the Incarnation. Both in the benefits of the Incarnation and in the evils of the Fall, all men were represented. Pelagian Realism represented each Christian as identical in the unregenerate state with the unregenerate with CHRIST. This view exactly contradicted the theory of Grace. It was the will of God in the Incarnation whom He had "chosen in CHRIST" to His effect took place by the process of justifying the sinner into the Body of CHRIST.

The disputes between the Pelagians and the orthodox, when traced to their origin, were disputes as to the propriety of the terms, Nature, and Person. The Pelagians did not deny that grace was necessary to the Incarnation. At what time the Divine operation assumed the human Nature, Grace, was the question. The disputants differed on the point whether sin is a quality of *nature* or of *persons*. The orthodox clung to the term "original sin," indispensable to the theory of Grace: hence they divided sin into "original and actual." Hence also the explanation of the reason why the first sin had its effects to posterity: It deprived our original justice: not so however the subsequent

some effectual antidote. Scripture fully revealed that antidote in the perfect righteousness of the SON of GOD. How to apply this to the individual sinner was the question. Scripture answers, "by grace ye are saved through faith." Faith must first come from above, and turn the soul to GOD. *This* is the physical notion of faith as an infused principle, the origin of "a new life."

236

There is one passage of Scripture in which a logical account of faith is given. It is described as "the substance of things hoped for, the evidence of things not seen." Here the Apostle is speaking in the terms of a logical philosophy. Yet it is practical, not speculative truth that he is really enforcing. What strivings and heart-burnings would have been saved to the Christian world had the proper *negative* notion of faith been strictly guarded! In *this* sense, justification by "faith only" is the sum of Christianity. To add to the assertion of it the necessity of conditions, is to counteract the proper efficacy of JESUS CHRIST.

237

The school divines explicitly assert that the infection of evil "remains in the regenerate." Being "born of God" we still need to proceed from our state as "babes in CHRIST," to the "measure of the stature of the fulness of CHRIST." By this procedure we become "stronger in the LORD."

239

Our condition antecedently to these influences is one of slavery: we are "sold under sin,"—could "not do what we would." This is the scholastic notion of Free will: it means the liberty from compulsion, and not from necessity. Thus we had no power without the "grace of God preventing us that we may have a will and working with us when we have it."

240

Our Article on free will is framed with the same view:—to declare that our proper responsibility as Christians *commences* at the time of our receiving Divine assistance. We are apt to suppose that free will consists in the circumstance of originating our own purposes. This is not the accurate theological sense of the term. The principle *throughout Scripture* is that our thoughts, actions, works, are dues that we owe to GOD; that we are not properly our own. Judaism had taught mankind to regard GOD as a Governor dispensing rewards and punishments "according to the works" performed in His service. A principle of obligation was adopted in the Gospel scheme, analogous to that of the Jewish. The Israelite was never suffered to forget that JEHOVAH was a just GOD, the "JUDGE of the earth." He was taught also to examine himself whether he had "done justly," whether he had incurred Divine *displeasure* by defect of duty, or might hope *reward* for obedience. The LORD reasons with him "whether His ways are not equal," and

the ways of His people unequal, and “whether the JUDGE of all the earth would not do *right*.”—Agreeably to this, CHRIST 242 is “the LORD our righteousness” or justice, and the Apostle speaks of GOD having shown “His justice” in the act of justifying sinners through CHRIST. We trace the same idea in such terms as Mediator, Advocate, Intercessor, Justification, Remission, Pardon, *terms evidently drawn* from legal or equitable proceedings. The introduction of the notions of merit or demerit is to be *explained* on this principle. The guiltiness of nature involved in it the *demerit* 243 of persons, even in those who had not sinned personally “after the similitude of Adam’s transgression.” Even the Christian in the most advanced state was regarded as *personally* (*sic*!) sinful and unholy. His being essentially in CHRIST, entirely constitutes his meritoriousness. A personal merit does not result to him from his union with CHRIST, though a personal demerit does from his being in Adam! 244

According to the ancient philosophy the notion of Justice was fundamentally political. It was the rule by which the respective claims of individuals of the same community might be adjusted. Now the first application of the term Merit to Christian philosophy, appears to be exactly of this nature. The great Christian society was viewed by the speculator in its relation to GOD, as its Governor and Judge. From the comparison of what man now is, with what he once was, when perfect from the hands of his Maker, would result the conclusion, that man could have no “merit;” he had only merited punishment by his intrinsic delinquency, but in the righteousness of CHRIST a title to reward was found.—The expressions, “merit of condignity,” 245 “merit of congruity,” thus resolve themselves into less exceptionable modes of speaking. Their theoretic truth is to be seen in their consistency with the philosophical notion of merit as the “measure of political justice,” and the theological description of it as the effect of “co-operating grace.” 247

The doctrine of Repentance also takes its expression from Aristotle’s theory of justice. Aquinas places it under the head of commutative justice. It is the *pœna*, satisfaction, or requital, voluntarily taken on himself by the offender, as distinct from the infliction of it by a judge. Thus Repentance is passed over as a doctrine, with slight notice; but as a ritual of punishment it obtains a full consideration. We may perceive the effect of this mode of treating the subject in our Articles—there being none expressly on the doctrine of Repentance. 248

The application of the term “punishment” to the sacrifice of our SAVIOUR *belongs to the same philosophy*. Hence the use of also the word “Satisfaction.” The suffer-

ings of CHRIST are said to be the voluntary payments on His part of what was otherwise not owing from Him to the Divine justice. Hence too would arise the notion that self-mortification would recommend us to the favour of God.

250

We may see in all this how strongly the *inefficacy* of Repentance is felt by the sinner. God, no doubt, is abundantly placable, merciful, and forgiving. The Gospel says, "Thy sins *be* forgiven thee: go and sin no more"; but the heart seeks for reparation and "satisfaction." Hence the congeniality to its feelings of the notion of Atonement. Speculation prompts the *rejection* of it: and furnishes reasons from the Divine attributes for discarding it as a *chimera of our fears*. Turn over the records of human crime. All concur in showing that whilst God is gracious and merciful, the human heart is inexorable against itself! It may hope, tremblingly hope, that God may forgive it, but it cannot *forgive itself*.

CHRIST thus is *said to be* our "Atonement:" not that we may attribute to God *any* change of purpose towards man, but that "*we may know* that we have passed from death unto life," that "*our own hearts* may not condemn us." 251

The *bane* of this philosophy of Expiation was that it depressed the power of man too low. The ecclesiastical power stood between the heart and heaven: Atonement was converted into a theory of commutation, degrading to the holiness of God.—The Reformation, by the blessing of God, has cleared away much of the *mischief of these speculations*. We still however feel the effects of them.— 253  
For what is all that accuracy and positiveness with which some persons state their views of Justification, but the point and precision of *theory*? What is all that profession of rational religion, with which some maintain the natural efficacy of Repentance, but a dogmatism founded on *theory*? We may learn from these extremes, that the *more indistinct our language is* on this sacred subject, the more closely do we imbibe the true principle of "Protestantism!" 257

## LECTURE VI.

The intellectual and moral instincts of man were regarded by the school divines as the materials on which Divine truth was to act. There was to be an identification of the Divine things with the purer and nobler principles of our Nature. The truths of revelation were to be steeped into the heart. The "life of God in the soul of man" is all that is presented to our notice.

263

This connection of theological and moral truth has been of serious injury to both departments of human knowledge.

Theology and Ethics are entirely distinct in their nature. In theology, human nature is regarded under a single point of view—that of its relation to the Author of its existence.—Moral philosophy, on the other hand, is engaged with examining the world within us. 264  
266

The close connection of these in their application, is the fallacy that misleads many persons. Paley, for example, has endeavoured to combine the separate principles of Ethics and Theology. The whole of Morality, according to his view, resolves itself ultimately into Religion.—The source of this confusion is to be traced back to the origin itself of Moral truth, resting as it does, in the first instance, on authority. Their *mode of reception* imparted to Moral truths a religious character. Especially as found in the Pentateuch, and in the extant politics of early legislators or philosophers, men would be induced to regard Morality as a matter of *ordinance*, rather than as the internal discipline of their affections. 267  
269

According to the Platonic doctrine, Morality was based on immutable speculative principles. Religion and Morality *coincided* in the maxim, that the business of man was the “imitation of God.” Thus began the confusion of ethical and theological truth. Augustine speaks of Plato’s system of Morals as the only one compatible with Christianity. The same tone of thought runs through the Greek Fathers. The noble and seductive language of Plato respecting the Chief Good was too strong a temptation to be resisted by the philosophical Christian. 271

The state of literature in the Western Church, after the period of Augustine, to the close of the eighth century, was such as to confirm the connection between theology and ethics.—But what contributed more than anything else to this conclusion was the spiritual power of the Church over the consciences of men. The exigencies of a complex and subtle government demanded its own particular code of spiritual legislation. The assumption by the clergy of a power which held the soul in its grasp made them the dupes of their own pretension. As they mistook the subtilty of speculative distinctions for theology, so they now mistook casuistry for morals. The monastic institutions, an effect of this confusion of theology and morality, also tended to foster it, and cement the two ideas of Virtue and Holiness.—The schoolmen gave a speculative harmony to this system. 272  
275  
277

Professed works of Ethics were composed by some of them ; but the proper character of their system is seen in the devotional work of Thomas à Kempis on the “*Imitation*” of CHRIST. Its great popularity marks both the general taste and the *intrinsic defects* of the times. It was the *ethics* of religion that men wanted. 278

The schools united the precision of Aristotle once more with the fundamental doctrines of Plato. They took Plato's theological account of the Chief Good. To the Christian moralist, this chief good could be no other than God. "Whom have I in heaven but Thee, there is none upon earth *I desire* beside Thee;" and, "there is none good but one, that is, God." To this notion of God as the chief good was added the physical theory of Aristotle, which described the motive principle in nature as Energy, intrinsic activity, "pure act." 279

From this complex notion of the chief good, both as the Deity Himself, and as essentially Energy, we may trace those gradations of moral excellence which the ethical discipline of the Church has established. 281

Happiness was placed out of the confines of the *present* world; it could only be sought by abstraction, self-denial, and devotedness to the Supreme Good! The body was an incumbrance: the Deity is the real object of attainment! Under such a theory we need not wonder at the rise of mysticism, or any of the extravagancies of fantastic piety. The "love of God" becomes the principle of action: not as it is, the "bond of peace and of all virtues," but as it is in itself, the most intense expression of the soul's effort, the condensation of all the affections and desires into one Divine ardour! 282

Again, we may observe the influence of Aristotle's notion of Energy, in the speculations by which the Latin Clergy established the superiority of that mode of life to which they were themselves devoted.—Happiness was Energy: *perfect* 283 happiness however consisted at once in leisure and activity, or that state of life which comprised both. And the theologian must command the admiration and respect of mankind, as approximating to the sublime purity, of which the full attainment was reserved, indeed, for a higher state of being, when the body shall no longer cloy and weigh down the soul! 284

Hereupon was established the doctrine of Perfection. The Christian, by co-operating with the infused principle of Grace would advance towards the chief good, the Deity: The more he lived in theory, the more would the Theory of human perfection be realized in him. To support this theory of perfection many of our LORD's expressions were adduced; such as, "If thou wilt be *perfect*, go and sell all that thou hast." "Be ye *perfect*, as your FATHER in heaven is perfect." "I have many things to tell you, but ye cannot bear them now." 285

Two different tracts of life were thus pointed out to the pursuit of men by the moral theology of the schools. The perfect life was that which conformed to the loftier principles of the Divine *counsels*; whilst the imperfect was

ordered by the Divine *precepts*.—Do we not recognize here 287  
the double morality of heathen philosophy? the strict right,  
the “wise man” of the Stoics, in the perfect Christian?  
the proprieties or *offices*, as they were called, in the imperfect  
services of the ordinary Christian? The outline of this  
artificial and enthusiastic distinction may be traced in the  
ethical system of Aristotle himself. 288

The distinction of sins into venial and mortal is deduced  
from the same notion of the Chief good. Whatever tended  
to withdraw the soul from its direction towards God was  
“mortal sin.” Venial sins, on the contrary, were such as  
were committed in the inferior path of Christian discipline  
through Original sin. The degrees of extenuation or indul-  
gence to different offences in the “venial” class are ascer-  
tained by the principles of Aristotle.—The rule in itself is 291  
a just and sound one; its sphere is in the intercourse of  
thought between man and man to regulate the judgment  
which each passes on another. Indulgence becomes the  
strict law of right: a sense of our own infirmity, and a  
genuine fellow-feeling, are the principles which must guide  
our moral decisions.

To the same principle may be traced the divisions of vir-  
tues into “theological” and “moral,” “infused” and “ac-  
quired.” Theological virtues are,—faith, hope, and charity:  
the moral,—prudence, justice, fortitude, temperance. Ac-  
quired virtue was the simple result of our natural instincts: 292  
infused virtue was the same moral qualities perfected in us  
by Divine influence. As the former fitted men for human  
affairs, the latter qualified them to be “citizens of saints  
and domestics of God.” The soul proceeded in the Divine  
life as in the Moral, as (according to Aristotle) it advances  
in its natural conquest over the passions. 293

In the further development of their ethical system the  
schoolmen closely followed the method of Aristotle’s ethics.  
Aquinas in particular has illustrated the application of Aris-  
totle’s principles to Christian Morality with an admirable  
comprehension of the subject, and sometimes with a know-  
ledge of human nature scarcely surpassed by modern philo-  
sophy.—Deeply are we indebted to the scholastic philosophy 295  
for its transfusion of the valuable theories of Aristotle into  
this department of science.

The question of the *nature* of moral obligation, and the  
very use of the term Obligation are derived from this  
source. Philosophers have been anxious to solve the  
question, why man is *obliged* to the performance of *right*.  
Religionists have drawn down unnecessary force from the  
“law of God,” considered as the rewarder and punisher in  
a future state. The irreligious have had unholy recourse  
to the arm of social power. The simple fact is, that Virtue



is a *perfect law in itself*. The truth is, that the term Obligation is a religious one introduced into Morality by that peculiar connection established between religion and morals.

296

To the technical language of the school ethics we may attribute the extravagance of those moderns who have reduced *all* actions to necessity. Actions have been analyzed mentally into motives and ends. This mental distinction has been converted into forces and effects.

298

The influence of the scholastic blending of theology and ethics is evidenced in the very general confusion of thought still observable on this point. There are two extreme opinions: one ascribing too much to theology, the other too much to morality. Morality, it should be observed, is the science of our own internal nature; its office throughout is one of discovery. But is it a whole in itself? or is there something beyond it, in which it originated, and to which it tends? Revelation answers; by giving us an account of the origin of these principles in the dispensations of Providence, and the ultimate effect in a future life.

We are apt to speak of Religion as supplying fresh *motives* of conduct, but, in fact, the principles of our moral nature are the *only motives* to action. The truths of Christianity are presented as objects towards which they should tend. A confusion of results with motives takes place whenever the religious principle is substituted as the spring of action; as when it is argued that no action can have any moral value, except it be done immediately and exclusively on a motive of "glory to God." The glory of God supplies, indeed, the great religious centre of our actions: they are incomplete and irreligious if they terminate in worldly objects; but they must be performed according to the laws of our nature, they must originate within us, they must be morally right in themselves.

299

Christianity, in fact, leaves ethical science precisely where it found it.

301

Were we to find embodied in the language of a Revelation much *false ethical philosophy*, it would be nothing strange or objectionable. In consequence rather of making theology a science, the notion arose that nothing could be true in any science *repugnans veritati hujus scientiæ*. The admission of false ethical philosophy into the sacred volume is not more objectionable than descriptions involving *false theories of natural philosophy*! Nothing is more wanted in these days than an accurate acquaintance with the truths of Ethics to disperse the clouds which the prejudices of theological theory spread over human nature.



does not depend on such an assumption

Grace, according to the Latin theolog natural defects of the soul." The th ments proceeds on this view. The Inca was regarded as the primary efficient cau soul. The doctrines of Original sin, and represented mankind as one with Adam, CHRIST, in righteousness.—The Sacrat two extremes into connexion; marking th transition from "corruption" to "glo treated as "effusions of the *virtue* of CH

The word "Sacrament" corresponds wi of the Greeks. The definition, in the Church of England, is exactly what the suggests.

Rightly to understand the doctrine o we must look to the theory of *secret infl* is based;—the mysterious power concei certain things, or actions, or persons. only subordinate causes; CHRIST was the s of grace. In *this* respect the mystical ph agents in nature was Christianized: still, power was asserted in the strongest mann belief in magic in the early ages may su for the ready reception of such a theory.

In fact, there was an adaptation of the p pecting the power of incantations and char. of religion

of the prevalent idea! The philosophy of the schools was favourable to this doctrine. 316

The popular and orthodox view was, that the Sacramental influence was a power of Causation. The Eucharist (as the most complex subject of disquisition) was the point of the general question to which attention was particularly directed. Disputation being the pastime of theologians, the notion was opposed, "that this Sacrament was a sign only, and not the actual presence of the crucified body of CHRIST." The collision forced the schools into precision of language, as to this particular. The nature of CHRIST's presence in Baptism, indeed, was left open to opinion; whilst respecting the Eucharist the path of orthodoxy was rigidly marked out. 319

The orthodox charged their adversaries with holding the Sacraments to be only "signs."—This may account for the expression in our article, "The LORD's Supper is *not only a sign, &c.*" It had become necessary for our reformers to guard against the thought of evacuating the Sacrament altogether of its *holy burden of grace*.—It may 320 well be asked, *why* this sacred rite should stand so pre-eminent? I do not say that it ought *not* to hold a principal station amongst the observances of a holy life: but why it obtained *this* superiority, "we may learn in the scholastic theory."

By that theory, the whole virtue of CHRIST's priesthood was mystically represented and conveyed in the Eucharist. It was the appointed channel through which the expiatory virtue descends, in vital efflux, from the person of the SAVIOUR!—The Priest officiating in the Sacrament ap- 321 peared in the person of the Church. Whatever arose from the mere person of the Priest, as an individual man, could not vitiate the rite.

The Church of England admits indeed that the vice of the Minister does not impede the effect of the Sacrament.—*The faith of the receiver however is the true consecrating principle*: so indeed there was no need of an express article on the subject, when it was fully understood on *Protestant* grounds. 323

But the point itself was important.—It was an admirable expedient of Ecclesiastical policy thus to rest the power of the Church on the purity and indefectibility of *an abstraction*. Religious imagination was sustained on the picture of the Church, as the great Mother of the faithful, cherishing her beloved children in her pure bosom: whilst her many-handed agents in the world were securing their hold on the consciences of men, by that prerogative of veneration which they enjoyed in *her person*! 324

Baptism, Confirmation, and Orders, were distinguished

necessity as Baptism) was a rite which with safety by none who were capable of

The controversies of the ninth and eleventh century exhibit the theory of the Sacraments in what was an unfinished state. The point in controversy was the words "*really*" and "*truly*," were they the presence of CHRIST in the Eucharist?

The Latins of the ninth century were very different from their predecessors of the twelfth century, understood accordingly by "substance," an idea which we attach to the term, when we speak of the most important part of a thing. The idea of substance as the support, or basis, of an accident was not recognized at that time. The like observation was made with regard to the word "species." The bread and wine (that is) were not the actual bread and wine, but the compound things

It remained then for later discussion, the penetrating spirit of scholasticism, to analyze the nature of grace in the Sacrament. The subtle distinction of matter, and form, substance, and accident, was introduced.

Thus a Sacrament has been described as consisting of matter and form: the matter being the bread and wine, . . . . the form, the particular consecration. Hence too the use of the words "bread and wine" being viewed (like the image of the

substance of another ; whilst the accidents remained. The accidents of bread and wine were not supposed to be in CHRIST as in their *subject*. They are represented however (in the mystical phraseology of Platonism,) as outward veils under which the real spiritual substance of CHRIST is latent.

337

In no point is the prodigious influence of the scholastic philosophy more apparent than in this ; that a doctrine so abstruse, so remote from religion when viewed in its source, not appealing to any sentiment of the heart, not captivating the judgment by the sublimity of its conception, should have become a corner stone of faith to a large proportion of the Christian world !—The doctrine that the substance of CHRIST was present — the proper doctrine of the Real Presence—was a logical unity, an “*ens unum in multis*,” an idea beyond the reach of the unscientific intellect.

338

340

The history of the Sacraments in the scholastic system is “God working by the instrumentality of man.” The theory is, of the *Divine causation* ; the practical power is the *sacerdotal*.

341

Thanks to the Christian resolution of our reformers, they broke that charm which the mystical number of the Sacraments carried with it : and dispelled the Theürgic system which it supported. But we still require watchfulness against the temptation to refine on this subject ; lest we enslave ourselves to a kind of priestcraft in our own minds. In regard, indeed to both the Sacraments, singleness of heart is the only human means that we possess of apprehending their true import.

343

## LECTURE VIII.

The discussion upon which I am now entering is, an arbitration of the point, where Divine truth ends—and human truth commences ; or, where the certainty of Divine *fact* ceases, and the probability of *opinion* takes its rise.—Both dogmas and facts of religion have been rested on the same footing ; hence the disputes, as to what points are “necessary to be believed,” and what may be variously held without “danger to salvation,”—*disputes which are remnants of the Scholastic spirit*.

350

352

When we have once separated matters of Religion into simple *facts*, and *theories* founded on them, there can be no question of relative importance.

353

According to Vincent of Lerins, the test of orthodoxy is, that a doctrine should have been believed “in all places, and in all times, and by all men.” The principle is a relic of that philosophy which sought for a speculative *certainty* to moral facts.

354

which comes so recommended to us.

If we go back to the primitive age of gelsists, no doubt the principle holds. To raise a question, whether there has or, to what extent it is a ground of ant however that there is a clear case of ins in regard to our sacred books, it follow dependent of them *can* possess the sar this is *Divine* truth; whatever is distinct In the history of doctrines, when we lo tural source, we may affirm that whate *whatever is of a subsequent period is c* deed the *very period when the Apostle* teaching: the most wild theories were *Christianity*. The hearer of an Apostle from him, by money, the power of the S

But to come to the Apostolic Fathers decisive of what is *true*, or *false*, in theol they are, in reality, less valuable than subsequent age. The remark may be Fathers of the third, fourth, and fifth o parison with each other.—There is one ex earlier Fathers possess, in contrast to t *piety* and Christian spirit. *Their errors* definite, on the *surface* of their Christi Fathers of the fourth century *incorporate* Gospel itself.

nature be open to objections, and (it may be said) *unanswerable objections*. We can *never arrive*, in this state of our being, at a proper knowledge of the general laws of such facts.—The case, however, of a metaphysical theology, demands their solution. The fact will therefore be accommodated to the theory.

367

The principle of “consequences” was indeed the life and soul of the scholastic system. This was necessarily *progressive*.—Doctrines grew under the hands of disputants. The most sacred articles, of the Trinity and the Incarnation, only *gradually* reached their perfect dogmatic expression.— In the endeavour to maintain at once an authoritative and an argumentative theology, the truth of fact was confounded with truth of opinion. It is the nature of the truth of fact to admit no additional certainty from the progress of discussion. But the truth of opinion is of a nature to be modified and improved and established, by the course of time, by the progress of civilization, and arts, and knowledge, by accessions of experience, by the conflicts of judgments.

370

A *fact* of the Gospel is such, that were an Angel from heaven to preach anything different from it, our ears must be stopped to the sound; we must reject it as untrue.

The method of theology founded in speculation, was the triumph of ratiocination: logic domineering over theology.

372

The conclusions which I now wish to submit to your consideration, are the following: The doctrinal statements of religious truth have their *origin* in the human intellect. Strictly to speak, *in the Scripture itself there are no doctrines*. If any part of Scripture contains doctrinal statements, it will be supposed to be the Epistles; but they clearly imply that the work of salvation is *done*. Let every one decide for himself whether the *practical* or theoretical view of the Epistles is a correct one. For my part, I cannot doubt that the decision must be in favour of the *practical* character of them. By adducing text after text, it may be contended, that some “truth,” theory or system, is asserted; but “what is the *chaff* to the wheat?” *I appeal from Paul philosophising to Paul preaching*. And I further request it may be considered, whether it was not by such a mode of inference from the Scripture language as would convert THE EPISTLES INTO AUTHORITIES ON POINTS OF CONTROVERSY, that the very system of the scholastic theology was erected?

373

The proper truth of Dogmatic Theology, then, consists in its being a collection of *negations*; of negations, I mean, of all ideas imported into religion beyond the *express* sanction of Revelation. . . . The Nicene and Athanasian Creeds do *not* impress their notions on the faith of the Christian, as

calculations of human experience.  
were well to retain, amidst all its  
a system by which we are guarded  
the exorbitance of theoretic enthus

I have now completed the inqu  
But let it not be supposed that th  
have been examining is a thing o  
matter of curiosity. Its domini  
though *its sorceries* have been disp  
the Reformation has been received,  
has survived. Among our own th  
common to find one doctrine insist  
*order* to the reception of another: "  
stance, as *necessary*, in order to the  
of the "atonement." The spirit of  
among us; we yet feel its influence.  
practice of "preaching from texts" is  
ticism.

It will ill become me to dogmatize.  
I am directly engaged in illustrating  
of dogmatism; but I would submit  
whether the "Force of Theory," in th  
theological language, has been suffici

If there are any whose *anxiety* for  
been awakened by any observations  
present lectures, I exhort them to pr  
*ultimate shock*, to the *real truth*  
most

**THE**  
**CHURCH OF ENGLAND**  
**PRONOUNCED HERETICAL,**

**BY THE**  
**PROMOTERS OF A PETITION AGAINST THE**  
**CONSECRATION OF DR. HAMPDEN**  
**TO THE SEE OF HEREFORD.**

---

**A TRACT FOR THE TIMES,**  
**BY**  
**CLERICUS, M.A., CANTAB.**

---

**HATCHARD, LONDON: ELLIOTT, TORQUAY.**

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**1848.**





## A TRACT FOR THE TIMES.

THE Tractarian Conspirators\* have given notice that they intend to make the crisis of their opposition to the appointment, or rather consecration, of Dr. Hampden to the See of Hereford, an appeal to the Archbishop of Canterbury. I will not allow myself to suppose, that in taking this step, there is any intention to perplex the Primate in the new position he occupies at the Head of the Church. Still, should there be, latent in the minds of any, either of the promoters or subscribers to the petition and protest that has been put forth, any such unworthy object, they may take this for their consolation, that they have to deal, in this case, with one whom it is not very easy to perplex. Turning neither to the right hand nor to the left, but directing his efforts straight forward, in order to the promotion of the glory of God, in the real welfare and edification of the Church,

\*The term Conspirators, as applied to the Tractarians, is not my own. I borrow it from the late Mr. Froude, whose Memoirs were edited and published a few years since by a Member or Members of the Tractarian Heresy. Mr. Froude speaks of a conspiracy in which his party are engaged against the Church of England as established at the Reformation, of which blessed event he sets forth his condemnation in not very measured terms.

our beloved Archbishop ever has maintained, and there cannot be a doubt ever will maintain, that high character which has long been his, as one of the wisest in judgment, the soundest in doctrine, and the most faithful in the discharge of his episcopal duties of any whom our church has ever numbered amongst her bishops.

The petition and protest have been put forth in some of the newspapers, and invitations have been largely given for signatures. In order to enhance the charge of heresy, and to stagger the Archbishop in his chair, should he really have entertained any serious intentions of consecrating Dr. Hampden, a vigilant eye, it appears, has been engaged to run through the pages of the Regius Professor's Bampton Lectures, in order to ferret out the most fatal piece of heresy its perspecuity might be able to discover. How many passages may have been rejected as not strong enough, though in the mind of the reader doubtless savouring of heresy, it is impossible to say. One passage, however, has been at length discovered, which, to the minds of these excellent judges of heresy against the Church of which they profess to be members, is quite enough to stamp the Doctor with all the awful sin with which he has been charged, and to render his consecration an impossibility. How the passage stands in the context I cannot say, as I have not been able to lay my hand upon a copy of the lectures. Isolated from that context, however, I will be content to take it in spite

of the convicted unfairness of quotation from the Doctor's works on former occasions. The passage is as follows :—

“Christ is emphatically said to be our atonement ; not that we may attribute to God any change of purpose towards man by what Christ has done ; but that *we may know* that we have passed from the death of sin to the life of righteousness by *Him* ; and that *our own hearts* may not condemn us.”—*Bampton Lectures*. 2nd edit., p. 252. \*

In this passage Dr. Hampden evidently assumes, with all its emphasis, the doctrine of the atonement—that finished work of Christ, neither to be diluted by man, nor to be added to by man, by which the justified sinner is, as a believer, made complete in Him according to the will of the Father before the world was. In accepting the atonement, the Doctor would seem to say, that the *purposes* of God towards man are in no way changed, only His gracious *intentions fulfilled*. When Christ cometh into the world he saith—“Sacrifice and offering thou wouldest not, *but a body hast thou prepared me*. In burnt offerings and sacrifices for sin thou hast had no pleasure : then, said I, Lo I come (*in the volume of the Book IT IS WRITTEN of me*) to DO THY WILL, O GOD.” Ps. xl, 6, 8 ; Heb. x, 5, 7.

Having thus stated that the acceptance of Christ's

\* “The italics are Dr. Hampden's.”

atonement was *according to* the will and purpose of God the Father, not affecting any change in that will and purpose, the author of the Bampton Lectures goes on to say, that having thus accepted the Son's finished work on our behalf, He has mercifully granted to His children the testimony of His Holy Spirit, to their adoption into His family—their passage from the death of sin to the life of righteousness, by Him, Christ Jesus our Lord. And “thanks be to God for this unspeakable gift.” It would occupy far more space than I can allow myself, to bring forward every passage of scripture, to prove that in deed and in truth “the Spirit beareth witness with our spirit that we are children of God, and if children, then heirs, heirs of God and joint heirs with Christ. “Hereby,” saith St. John, “*know we* that we dwell in Him and He in us, because He hath given us of His Spirit.” and again, “*We know* that we have passed from death unto life *because we love the brethren.*” Would to God that this knowledge were more felt and exhibited by those who, if they ‘knew the gift of God,’ instead of opposing His truth, would rejoice to receive it, as the power of God unto salvation to every one that believeth! And further, in this short passage the Professor observes, that another blessing and comfort to the believer, in this world of sin and contradiction, as flowing from the atonement, is “that *our hearts* may not condemn us.” What says the Apostle John? “And hereby *we know* that we are of the truth, and shall *assure our hearts* before Him. For if our hearts condemn us, God is greater than

our heart, and knoweth all things. Beloved, if *our heart condemn us not*, then have we *confidence* towards God : and whatever we ask we receive of Him, because we keep His commandments, and do those things that are pleasing in His sight. And this is His commandment, that we should believe on the name of his Son Jesus Christ, and love one another as he gave us commandment. And he that keepeth his commandments dwelleth in Him, and He in him. And hereby *we know* that He abideth in us, by the Spirit which He hath given us.

Comparing this passage, then, with the Scriptures, must we pronounce it to be heretical, and account its author unworthy of consecration as a Bishop ? What says the Church, over one of the dioceses of which he has been called to exercise that office by his Queen, the Defender of the Faith ? Let us put the Regius Professor and his Church in parallel columns, and see how far he has, at least in this carefully collected passage, contradicted her.

**DR. HAMPDEN.**

“Christ is emphatically said to be our atonement ;

**THE CHURCH.**

“The offering of Christ once made is that perfect redemption, propitiation and satisfaction, for all the sins of the whole world, both original and actual, and there is no other satisfaction for sin, but that alone.”

**Art. xxxi.**

God any change of purpose  
towards man by what Christ  
has done;

the  
Go  
fou  
laid  
cre  
us,  
dam  
hath  
man  
by C  
vatio  
hono  
V  
enduo  
benef  
cordin  
his S  
season  
*obey t*  
tified  
sons  
they l  
of hi  
r

but that *we may know* that  
we have passed from the  
death of sin to the life of  
righteousness

## DR. HAMPDEN.

“but that *we may know* that we have passed, &c.,” and “that *our own hearts* may not condemn us.”

## THE CHURCH.

Election in Christ, is full of *sweet, pleasant, and unspeakable comfort* to godly persons, and such as *feel within themselves the working of the Spirit of Christ*, mortifying the works of the flesh, and their earthly members, and drawing up their mind to high and heavenly things, as well because it (the consideration) *doth greatly establish and confirm their faith of eternal salvation* to be enjoyed through Christ, as because it *doth fervently* kindle their love towards God: So for curious and *carnal* persons, *lacking the spirit of Christ*, to have continually before their eyes the sentence of God’s predestination is a most dangerous downfall, whereby the Devil doth thrust them either into desperation, or into wretchedness of unclean living, no less perilous than desperation.

Furthermore, we must receive God’s promises in such wise as they be generally set forth to us in Holy Scripture: and in our doings, that will of God is to be followed which we have *expressly declared unto us in the Word of God.*”



That God's purposes are un-  
were from eternity in the mind  
is no variableness nor shadow of  
which hath both scripture and  
out, and that the spirit of God is,  
to testify of Christ, and be His  
their souls' strength and comfort  
an undoubted footing. "The  
one to whom the term *judicious*  
applied, "have God's own Son,  
from heaven, whose race and pr  
spiritual and heavenly birth. G  
eternally his Son, he must need  
*have loved and preferred before al*  
*are since spiritually descended and*  
These were in God as in their Savi  
their Creator only. It was the pu  
goodness, his *saving* wisdom, and  
which inclined itself towards th

Father, and cometh not to us but by the Son ; nor by the Son to any of us in particular, but through the Spirit. For this cause the Apostle wisheth to the Church of Corinth the grace of our Lord Jesus Christ, and the love of God, and the fellowship of the Holy Ghost, which three St. Peter comprehendeth in one, *the participation of the divine nature*. We are therefore in God through Christ, *eternally, according to that intent and purpose, whereby we are chosen to be made his in this present world, before the world itself was made*. We are in God, through the knowledge which is had of us, and the love which is borne towards us from everlasting.”—*Hooker*, Eccl. Pol. b. v. sec. 56.



2

**THE CASE OF DR. HAMPDEN.**

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**THE**

**OFFICIAL AND LEGAL PROCEEDINGS**

**CONNECTED WITH THE**

**APPOINTMENT OF DR. HAMPDEN**

**TO THE**

**SEE OF HEREFORD,**

**INCLUDING THE PRINCIPAL DOCUMENTS CONNECTED WITH THIS  
IMPORTANT CONTROVERSY,**

**AND**

**A TRANSLATION OF ALL THE EXTRACTS,**

**COLLATED BY THE ORIGINAL AUTHORITIES.**

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**With Notes, and an Appendix.**

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**LONDON:**

**GEORGE BELL, 186, FLEET STREET.**

**CAMBRIDGE: MACMILLAN, BARCLAY, AND MACMILLAN.**

**OXFORD: J. VINCENT.**

**1848.**

LONDON:  
J. HADDON, PRINTER, CASTLE STREET



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# THE OFFICIAL AND LEGAL PROCEEDINGS

CONNECTED WITH

## THE APPOINTMENT OF DR. HAMPDEN

TO THE SEE OF HEREFORD.

---

DR. HAMPDEN was born at Barbadoes, and entered the University of Oxford in the year 1809 as a Commoner of Oriel College. In the year 1813, his name appears in the first of "Literæ Humaniores," and also of "Disciplinæ Mathematicæ et Physicæ." In 1814 he obtained the prize for the Latin essay, and was successively fellow and tutor of Oriel College. In 1829, and again in 1831, he filled the office of Public Examiner in Classics; in 1832 he was Bampton University Lecturer, and in the following year was elected White's Professor of Moral Philosophy. He was appointed to the principalship of St. Mary's Hall by Lord Grenville, and in 1836 had the Regius Professorship of Divinity conferred upon him during the administration of Lord Melbourne. His principal works are, his "Bampton Lectures," entitled "The Scholastic Philosophy considered in its relation to Christian Theology, delivered before the University of Oxford, in the year 1832." 2. "An Essay on the Philosophical Evidence of Christianity; or, the Credibility obtained to a Scriptural Revelation, from its Coincidence with the Facts of Nature." 3. "A Course of Lectures introductory to the Study of Moral Philosophy, delivered in the University of Oxford, in Lent Term, 1835." 4. "Parochial Sermons;" and 5. "Observations on Dissent." He has also written several minor works, and contributed to the most popular encyclopædias.

On the death of Dr. Burton, early in the year 1836, Dr. Hampden was appointed to the vacant chair of Regius Professor of Divinity. On this occasion the following Declaration was published by several members of the University:

*Declaration made by Resident Members of Convocation, March 10, 1836, upon the Nature and Tendency of the Publications of the Rev. Dr. Hampden, recently appointed Regius Professor of Divinity in the University of Oxford.*

WE, the undersigned, engaged or interested in the religious instruction of this place, feel it our bounden duty at the present crisis to make this public Declaration.

We have seen with alarm the office of the King's Professor of Divinity in this University entrusted to one whose publications abound with contradictions to the doctrinal truths which he is pledged to maintain, and with assertions of principles which necessarily tend to subvert, not only the authority of the Church, but the whole fabric and reality of Christian truth.



principles which impugn and injure the word  
faith and practice, in its sense and use, its power and  
destroy the authority of the Church as a witness and a ke

And we hereby declare our stedfast resolution to op  
Almighty God, the spread of that false philosophy to v  
traced; a philosophy which in other countries has poi  
religious truth, which for a long time reduced Protestantis  
to an empty name, and changed the religion of the Cross

On the appearance of this Declaration, the Heads  
censure on Dr. Hampden, and the following Statute  
by a large majority :—

THE FORM OF THE STATUTE, 1

“Quum ab Universitate commissum fuerit S. Theologi  
sit ex eorum numero, a quibus designantur selecti Conc  
§ 8. (Addend. p. 150.) necnon ut ejus consilium adhibeat  
Vice-Cancellario in quæstionem vocetur, secundum Tit.  
quum vero qui nunc Professor est, scriptis suis publici ju  
tractaverit, ut in hac parte nullam ejus fiduciam habeat Un

“Statutum est, quod munerum prædictorum expers sit  
gius, donec aliter Universitati placuerit. Ne vero quid de  
versitas, Professoris ejusdem vicibus fungantur alii; scilicet  
designando Senior inter Vice-Cancellarii Deputatos, vel  
Cancellarii locum tenente, proximus ex ordine Deputatus (ordines suscepit), et in consilio de Concionibus habenda  
garetæ Comitissæ Richmondæ.”

“Seeing that it has been committed by the University  
Divinity, that he should be one of the number of those by  
are appointed. according to Tit. xvi & 8. (Addend. p. 150.)

taken holy orders), and in holding any consultation concerning sermons, the Lecturer of Lady Margaret, Countess of Richmond."

The passing of this Statute gave rise to a keen controversy, and was the occasion of the publication of the following pamphlets at that time :

- |                                                                                                           |                                                                                                                       |
|-----------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|
| Dr. Hampden's Observations on the admission of Dissenters; and Postscript.                                | Elucidation of Mr. Woodgate's Letter.                                                                                 |
| The Foundation of the Faith assailed in Oxford, a Letter to the Archbishop of Canterbury.                 | Statements of Christian Doctrine extracted from Dr. Hampden's Parochial Sermons.                                      |
| Observations on the Letter to the Archbishop of Canterbury.                                               | A Non-Resident M.A.'s Self-Vindication.                                                                               |
| Elucidations of Dr. Hampden's Theological Statements.                                                     | Remarks by W. W. Hull.                                                                                                |
| Dr. Hampden's Theological Statements and the XXXIX. Articles compared, with an Introduction by Dr. Pusey. | Remarks by Rev. B. Powell.                                                                                            |
| The propositions attributed to Dr. H. compared with the passages at length in the B. L.                   | Remarks by Rev. R. F. Laurence.                                                                                       |
| Specimens of Theological Teaching.                                                                        | Strictures on Dr. Hampden's Bampton Lectures, by the Rev. T. W. Lancaster, extracted from the British Critic of 1833. |
| Dr. Hampden's Inaugural Lecture.                                                                          | Reflections by Rev. E. W. Grinfield.                                                                                  |
| Brief Observations on the Inaugural Lecture.                                                              | Letter by Rev. C. R. Cameron;                                                                                         |
| Dr. Hampden's Past and Present Statements compared by Dr. Pusey.                                          | Letter by Rev. R. Churton.                                                                                            |
| Conspectus of the Hampden Controversy, by Rev. J. Miller.                                                 | State of Parties in Oxford.                                                                                           |
| Letter to Lord Melbourne, by Rev. J. Woodgate.                                                            | Oxford Persecution.                                                                                                   |
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|                                                                                                           | A Pastoral Epistle from his Holiness the Pope.                                                                        |
|                                                                                                           | An Earnest Remonstrance to the Author of the Pastoral Epistle on the danger of Ridicule in Religion, by Dr. Pusey.    |

In the middle of the year 1842, the controversy was again revived on the appearance of the following circular from the Vice-Chancellor :—

"The following Form of Statute will be promulgated in Congregation on Saturday, the 4th of June next, at ten o'clock, and submitted to Convocation on Tuesday, June 7th, at two o'clock.

" P. WYNTER, Vice-Chancellor.

" *Delegates' Room, May 24, 1842.*

"Quum per Stat. Tit. xvi. § 8, 11, publicatum et confirmatum in domo Convocationis die Vto. mensis Maii A.D. 1836, sancitum sit, ut Theologiæ Professor Regius munerum quorundam in eodem Statuto memoratorum expers sit donec aliter Universitati placuerit :

"Placuit Universitati Statutum istud abrogare."

"Seeing that by the Statute, Tit. xvi. § 8, 11, promulgated and confirmed in the house of Convocation on the fifth day of May, A.D. 1836, it was determined that the Regius Professor of Divinity should be deprived of certain offices mentioned in the same Statute, until it should otherwise please the University :

"It hath pleased the University to abrogate that Statute."

On June 7, 1842, a Convocation was holden at Oxford for the purpose of rescinding the statute relative to the Regius Professor of Divinity passed in the year 1836. The Convocation having been opened by the Vice-Chancellor announcing the object of the meeting, and the proposed abrogation of the statute

My Lord,—We, the undersigned Bishops c  
duty to represent to your Lordship, as head of H  
hension and alarm which have been excited in th  
nomination to the see of Hereford of Dr Hampe  
trine the University of Oxford has affirmed, by a

We have the honour to be, my  
Your lordship's obedi

|                       |   |
|-----------------------|---|
| C. J. LONDON.         | J |
| C. WINTON.            | J |
| J. LINCOLN.           | I |
| CHR. BANGOR.          | A |
| HUGH CARLISLE.        | J |
| G. ROCHESTER.         | S |
| RICH. BATH AND WELLS. |   |

*To the Right Hon. the Lord John Russell, &c.*

Since the date of that decree, Dr. Hampden has acted as Regius Professor of Divinity. The University of Oxford, and many bishops, as I am told, have required certificates of attendance on his lectures, before they proceeded to ordain candidates who had received their education at Oxford. He has likewise preached sermons, for which he has been honoured with the approbation of several prelates of our church.

Several months before I named Dr. Hampden to the Queen for the see of Hereford, I signified my intention to the Archbishop of Canterbury, and did not receive from him any discouragement.

In these circumstances, it appears to me, that should I withdraw my recommendation of Dr. Hampden, which has been sanctioned by the Queen, I should virtually assent to the doctrine, that a decree of the University of Oxford, is a perpetual ban of exclusion against a clergyman of eminent learning and irreproachable life; and that, in fact, the supremacy which is now by law vested in the crown, is to be transferred to a majority of the members of one of our universities.

Nor should it be forgotten, that many of the most prominent among that majority have since joined the communion of the church of Rome.

I deeply regret the feeling that is said to be common among the clergy on this subject. But I cannot sacrifice the reputation of Dr. Hampden, the rights of the crown, and what I believe to be the true interests of the church, to a feeling which, I believe to be founded on misapprehension, and fomented by prejudice.

At the same time, I thank your Lordships for an interposition which I believe to be intended for the public benefit.

I have, &c.

J. RUSSELL.

*To the Right Rev. the Bishops of London, Winchester, Lincoln, &c.*

LETTER OF THE LORD BISHOP OF EXETER TO LORD JOHN RUSSELL.

*To the Right Hon. Lord John Russell.*

London. Dec. 10, 1847.

MY LORD,—I had last night the honour of receiving your Lordship's letter of the 8th instant, addressed to myself, in common with the other Bishops who had presumed to represent to you, their apprehensions of the evil consequences which must be expected to result from the nomination (if persisted in) of Dr. Hampden to the vacant see of Hereford.

As the remonstrant Bishops have now, for the most part, returned to their several dioceses, it is not possible for them, within any reasonable space of time, to meet together for the purpose of making a common reply to those parts of your Lordship's letter which may seem especially to demand reply. I therefore feel it due to your Lordship, no less than to myself, that I should state frankly, and without waiting for communication with others, the reasons which compel me to withhold my assent from the arguments which you have addressed to us.

Your Lordship is pleased to remark, first, on our "not having stated any want of confidence, on our own part, in the soundness of Dr. Hampden's doctrine."

My Lord, in abstaining from such statement, we took that part which, I venture to submit, manifestly was most becoming.

We had hardly a right to obtrude upon you, unasked, our opinion on that point; for such opinion would have been only that of individuals, whereas the judgment on which we rested our representation, was the judgment of a body eminently qualified to judge, and accustomed, in the best times, to be listened to on such subjects with respect and attention by all. But, my Lord, as our silence on this particular is considered by your Lordship as an omission which lessens the force of our representation, I will not myself be silent any longer. I hesitate, not, therefore to state, that I have no confidence in the soundness of Dr. Hampden's doctrine.

"The decree of the University," to which we referred, "passed," as your Lordship truly observes, "eleven years ago; and was founded" (in part—doubtless a principal part) "upon lectures delivered fifteen years ago."

Why was it, your Lordship seems by implication to ask, that the long interval of four years was suffered to elapse between the publication of the offensive doctrines and the decree which condemned them?—For a reason which I venture to think your Lordship will, on reflection, deem quite sufficient to explain, if not to justify, the delay.

During those four years Dr. Hampden was in no position specially and immediately connected with theological teaching; his errors therefore, however grave, were not so formidable as to demand the unusual interposition of the University as a body, to vindicate the sacred truths which he had impugned.

If it be asked, why the lesser and ordinary tribunal—the Vice-Chancellor's Board—was not resorted to, I frankly answer, that I do not know. It may have proceeded, and probably did proceed, from the natural, perhaps culpable, reluctance of men in authority, to exercise that authority penally against one of their own number; and from the unwillingness of men not in authority to place themselves, without very special call, in the invidious and painful position of public accusers.

At the end of those four years, however, the state of things was greatly altered. Dr. Hampden had ceased to be in the comparatively private station which he had before occupied. He had been appointed to the highest chair of divinity in Oxford. His influence therefore on its theological teaching, and on the future character and usefulness of the University, could not but be dreaded and deprecated, and the duty of resistance to that influence had become most manifestly, most imperatively urgent. Accordingly, the heads of the University are understood to have presented in the highest quarter, through his Grace the Archbishop of Canterbury, their strong objections to the appointment; and our then most gracious sovereign, King William IV., was generally believed to have expressed his desire, that the appointment should not be completed.

But, even the expression of the royal wish having been found to be in vain, the University was compelled to have recourse to its own unquestioned powers of judging in such a cause, and to take those steps which might not only lessen the power of mischief in the new professor's teaching, but should also vindicate its own character before the world.

Such, my Lord, is, I believe, a brief history of the decree to which the remonstrant bishops referred your Lordship.

But you add, that "since the date of that decree, Dr. Hampden has acted as Regius Professor of Divinity; the University of Oxford, and many Bishops, as I am told, have required certificates of attendance on his lectures, from candidates for holy orders, who have received their education at Oxford."

My Lord, that "the University of Oxford has ever required certificates from any persons under its authority, of attendance on Dr. Hampden's lectures," I have never before heard; nor, till I had the honour of receiving your Lordship's letter, have I had the slightest reason to believe.

With regard to the course taken by Bishops in this respect, I may be allowed to say, that it had been the universal rule of every diocese in England, to require the certificate of attendance on the Regius Professor's lectures for a very long period before that chair was filled by Dr. Hampden. If any Bishops abstained from revoking that rule, although a professor was appointed whom they might greatly disapprove, it would not much surprise me; nor should I think that they thereby precluded themselves from the right of testifying their adverse judgment of him on any grave occasion, as the present must pre-eminently be held to be.

Be this as it may, if any of the remonstrant Bishops are justly open to this remark (now not that any of them are), I am not in the number. Immediately after the

passing of the academic statute in question, I deemed it right to inform Dr. Hampden, as, doubtless, if he has made any communication to you on this head, he has informed your Lordship, that I could not regard him as a safe guide to students in theology, and could not, therefore, require certificates of attendance on his lectures from candidates for holy orders. I made this communication in terms as little offensive to Dr. Hampden's feelings as I could devise; and I had the satisfaction of receiving from him, if my memory does not deceive me, an acknowledgment to that effect.

That "Dr. Hampden has likewise preached sermons, for which he has been honoured with the approbation of several prelates of our church," I most unhesitatingly believe, on the authority of your Lordship; but the relevancy of such a fact to the matter now in question, in any but an infinitesimal degree, I must profess my inability to perceive.

Your Lordship proceeds to say, "Several months before I named Dr. Hampden to the Queen for the see of Hereford, I signified my intention" (not, I am confident, of naming him to the see of Hereford, for that see was not then vacant nor likely to be vacant, nor to the next see which might be open—for another has been since open, to which Dr. Hampden was not named; and more than one eminent person is known to have had the offer of it from your Lordship; but, it may have been, that you signified your intention of naming Dr. Hampden to some see, at some time or other) "to the Archbishop of Canterbury, and did not receive from him any discouragement."

My Lord, your Lordship will, I am confident, pardon my inquiry (for the question is manifestly most important to the fair understanding of the merits of the case),—Did you ask his Grace whether he thought Dr. Hampden a fit person to be recommended to a bishopric? If you did not ask his opinion, few persons will be at all surprised that he abstained from giving it.

Your Lordship better knows than I can presume to guess, what are the relations between his Grace and yourself,—what your habits of consultation with him on this and kindred questions. But thus much I must say, that unless these relations be most intimate, these habits most unreserved, it would seem to be almost a matter of course, that our aged Primate, one always distinguished by his delicacy and reluctance to obtrude, without absolute necessity, the expression of any opinion adverse to the interests of another—it would seem to me, I repeat, a matter of course, that his Grace should forbear to tell your Lordship that your intention of recommending Dr. Hampden at some period, which might never arrive during the continuance of your Lordship's power of recommending, or during his own valuable life, would involve you in the difficulty of having named a person whose appointment would be regarded by the Church at large, as an act either of wanton insult, or of official recklessness beyond all precedent.

After all, it is satisfactory to see, on the authority of your Lordship's own words, to how small dimensions the swelling statement at first made of this matter has at length dwindled. The story—which was put forth in a tone only not official, and circulated by those who spoke as on the authority of your Lordship—that the Archbishop had given "his cordial assent" to Dr. Hampden's appointment to the now vacant see of Hereford, turns out to be nothing more than that the Archbishop gave no "discouragement," when, several months before the see of Hereford was vacant, you signified to his Grace your intention of naming Dr. Hampden, at some time or other, to some bishopric or other.

And the importance even of this intimation of the Archbishop's supposed "assent" to Dr. Hampden's appointment, small as it is, sinks into absolute insignificance—or, rather, is converted into something much more nearly resembling "dissent"—when it is stated, on authority too respectable to admit of question, that your Lordship actually received a letter from the Archbishop some days before that of the Bishop, in which his Grace apprised you of the ferment which the announcement of Dr. Hampden's pro-

crave the slightest intention to insinuate that such is your intention, that he would be a fit instrument for such a purpose, utterly incapable of any thing so dishonourable. But to be necessary to introduce what is, I submit, really apposite.

"Some of the Bishops brought to Archbishop Sancroft they desired he would offer to the King in Council, as consecrating them might be delayed till time were given. Bishop Lloyd told me that Sancroft promised to him not to examine the truth of the articles, which were too scandalous when Sancroft saw what danger he might incur if he were sent to consecrate them.

"[An accident happened in the action that struck him to give the chalice in the sacrament, he stumbled on one of the chalice and dashed out all the consecrated wine that was in it; which gave him much trouble, since he was frightened by the accident.] *History of his own Times*, Oxford, 1823, vol. iii. p. 136-8.

Such, my Lord, is the first—precedent, shall I say? of your Lordship to decide; and, in forming your decision, you will observe that Sancroft is not now in the see of Canterbury, nor in England.

The other case is that of Bishop Hoadly, of which I am sure your Lordship may think it worthy of being followed.

Against this prelate, a notorious latitudinarian, "and as the House of Convocation, in 1717, prepared a representation to the House of Bishops sitting in the Upper House, "that we had observed, that the Right Rev. the Lord Bishop of Bath and Wells had committed a grievous offence by certain doctrines and positions by him advanced, of which they proceeded to set forth in the form of a

*Refutation*."

If there are objections to that course, devise some other. Let these writings be judged by a provincial council of the Bishops, assisted by such divines as Her Majesty shall be graciously pleased to name; or devise some other tribunal, of any kind, provided it be fair and competent; but do not, as you value your own good name, or the honour of your Sovereign, or the welfare of the Church, and, it may be, it must be, of the state also; for the welfare of the state, rightly understood, is, and ever will be, bound up indissolubly with that of the Church,—do not persist in your unhappy career—make not that which is as yet only an indiscretion, and revocable as such—make it not a crime, aye, and I dare not forbear adding—a sin.

But I return to your Lordship's letter.

You proceed to say to us, "Should I withdraw my recommendation of Dr. Hampden, I should virtually assent to the doctrine, that a decree of the University of Oxford is a perpetual ban of exclusion against a clergyman of eminent learning and irreproachable life."

My Lord, I doubt not the learning nor the excellent moral character of Dr. Hampden. But these qualifications have no connexion whatever with the merits of this case. Is Dr. Hampden unworthy of confidence as an exponent of Christian truth? The University of Oxford, judging from his published writings, has solemnly decreed that he is; and, because he is, that University has deprived him of certain functions hitherto attached to his office of Professor of Divinity. Is it of less moment that there be confidence in the soundness of the doctrine of a Bishop than of a professor? Is heterodoxy less mischievous in a judge, than in a teacher, of theology? My Lord, it cannot be necessary to remind you that a Bishop, as such, and by the indefeasible right and duty of his office, is empowered, and is bound, to judge of the doctrine preached and taught by every clergyman under his charge.

The judgment of the University, therefore, ought to be a "ban of exclusion" (from the office of a Bishop at least) against Dr. Hampden, so long as it remains in force; in other words, until it shall be either repealed, or washed away, or proved to be unfounded.

The first of these three modes has been tried, but the attempt signally failed. The University, six years after the decree passed, was moved to repeal it, and that, too, under circumstances peculiarly favourable to the success of the motion; when, from causes too notorious to need to be recited, a strong re-action had arisen, and prejudice had taken a course most favourable to Dr. Hampden. Yet, even then, the motion of repeal was sternly rejected by a majority, much smaller, indeed, than that which had originally enacted the decree (474 to 94), but large enough to evince abundantly the unaltered and unalterable judgment of the University—it was 334 to 219.

Your Lordship says, however, "it must not be forgotten, that many of the most prominent among the original majority have since joined the communion of the Church of Rome."

My Lord, if by "the most prominent" ought to be understood the committee, who openly sat for the purpose of devising measures for vindicating the University from the evils which might be expected to result from such a selection of the King's Professor of Theology—and who, as being "the most prominent" in the contest, received the formal thanks of bodies of clergy throughout England, too numerous to be recounted—of these, one indeed has fallen, to the consternation and grief of all who knew, or had heard of, his high faculties. The others, thank God, still stand rooted and grounded in faith and love.

But, my Lord, supposing that those of the majority who have lapsed may be truly stated to be "many" (I know not in any sense that they are), will your Lordship, or will any honourable man, venture to say, that, abstracting their names from the list even of the smaller majority, the result would not be to leave that majority still large—*still more than sufficient amply to stamp the decree with the impress of the general judgment of the University?*



and with hearty assent, a saying of King George III. his character is justly deserved. When his next vacant bishopric, some divine who had set forth cert however, he afterwards retracted—"I will have for a king, "some man who has nothing to retract."

But a third course may, I have said, be taken to remedy of exclusion of which your Lordship writes. Let the cause has created it be proved to be unfounded—let this be a tribunal, and Dr. Hampden will then enter on the office designated him, with powers of usefulness which he will carry it at all, be utterly unable to carry with him. My Lord *comgé d'élire*, or letter missive, has said, "a Bishop must need not say, from human infirmity, not free from every but pure from all which can be justly called "blame," who are entitled to pronounce judicially upon him.

Your Lordship is pleased to add, what (I must confess) that of your own hand could make me think it possible to would be, in fact, to say, that the supremacy which is now is to be transferred to a majority of the members of one of

My Lord, if instead of a decree having been passed against teaching by the University of Oxford, a judgment of the been pronounced against him for some flagitious crime urged as a reason why he should not be promoted to a transfer the royal supremacy from the Queen to Lord De should it be said to follow from Dr. Hampden's being de long as he is under the censure of the Oxford decree, the premacy of the Crown to the Convocation of Oxford?

My Lord, I own I am mortified at finding myself obliged

withhold the fullest credit. I thank your Lordship for your regard for those interests, however mistaken I may deem your way of testifying it.

Your unwillingness to "sacrifice the reputation of Dr. Hampden" does you honour. Shall I be deemed officious if I suggest to you the only expedient by which you can preserve it? For Dr. Hampden's sake, for your own sake, and the sake of his reputation and of your own, let his theological writings be subjected to a fitting and adequate tribunal. If the result be a sentence of exculpation, then, indeed, Dr. Hampden's reputation will be upheld and vindicated; then, indeed, it will "not be sacrificed," which else it must be if he be forced, or if it be attempted to force him, on the reluctant and reclamant Church, by rousing into life and activity the hitherto dormant powers of the most hateful and most tyrannical law which is permitted to pollute our statute book.

But your Lordship is further resolved "not to sacrifice" what you call "the rights of the Crown," founded upon that statute.

My Lord, the name of Russell ought to be—ever will be, I am sure, in your reflecting hours—a security to us against the application by you of a phrase so sacred as "the rights of the Crown," to a matter so foul as the provisions of the statute of which I am writing. My Lord, the Crown has no right, can have no right, (I trust, too, that it will be found to have no power), to force a Bishop on the Church whom the Church has just right to reject as a "setter forth of erroneous and strange doctrines, contrary to God's word." True, my Lord, the statute 25 Henry VIII., chap. 20, (the Magna Charta of Tyranny), does give to the Crown a power which your Lordship has been pleased to call a "right," to condemn to prison and to penury any Dean or any Chapter which may refuse compliance with such a mandate. But no statute has the power to effect the execution of the mandate itself; no statute has the power to make an honest and conscientious Chapter to elect, or an honest and conscientious prelate to consecrate to the office of Bishop, such a person as I have described above.

Forbear, my Lord, while you have yet time. Persist not in your rash experiment. The bands of your vaunted statute will snap asunder, like withes, if you attempt to bind with them the strongest of all strong men,—the man who is strengthened with inner might against the assailant of his Church.

My Lord, do not imagine that I am one of those who, if it were within their power, would deprive the Crown of any portion of its rightful supremacy, especially of its just, legitimate, Christian influence in the appointment of our Bishops—an influence which I firmly believe to be necessary to the peace, and therefore to the efficiency of the Church. Let the Crown continue to nominate them, but let it exercise this right, which almost all considerate churchmen wish it to retain, with caution, with discretion, with due regard to the feelings and the conscience of all concerned. Depend upon it, my Lord, the remonstrant Bishops spake to you a sound and pregnant truth, when they told you that the nomination to vacant bishoprics is a very delicate, as well as a very important particular of the royal supremacy.

But I will not enlarge on this matter. Again I implore you to forbear, while you yet have time. Retrace your steps, and be assured, every honest and good man, every prudent and sound adviser, above all, your own conscience, though not, it may be, your present transient feeling, will applaud your forbearance.

I have the honour to be, my Lord, your Lordship's most obedient servant,

H. EXETER.

#### POSTSCRIPT.

27, Conduit-street, Dec. 13.

MY LORD,—I have just seen a copy of your Lordship's answer to the address from the lay members of the Church, (very many and very distinguished members, as I have heard), on occasion of Dr. Hampden's appointment.

Connected as this address is with the subject of my recent letter, I may be permitted to add a few words in reference to it, as a postscript to what I there wrote.

Your Lordship states "your belief that the appointment will tend to strengthen the Protestant character of our Church, so seriously threatened of late by many defections to the Church of Rome."

I give your Lordship full credit for the motive to which you ascribe this appointment; but I must frankly say, that I should esteem any act a poor and worse than worthless compliment to "the Protestant character" of our Church, aye, and a real weakening of that Protestant character, rightly understood, which tends to make that character less catholic, and less worthy of the confidence of the sound portion of the Catholic church throughout the world.

But I have pleasure in stating to your Lordship, that not only in my own diocese, but in many others, the resolutions, addresses and petitions, on this occasion have been subscribed by the clergy of all shades of religious opinion, among them by those who are most strenuous in the cause of Protestantism.

I also feel it my duty to state to your Lordship, that I have been assured that there was great reason to fear, that if this appointment had taken place without strong resistance from all who could resist, and without remonstrance from those who could only remonstrate, there would have been a fresh and more deplorable, as well as far more numerous "defection from our Church," which would then have seemed tacitly to acquiesce in its own degradation, and so to have almost unchurched itself.

Your Lordship is pleased to condemn the course taken by the University of Oxford in 1836, and confirmed in 1842, as "an unworthy proceeding."

Without presuming to question the right of your Lordship, as an individual, to condemn any public act of any body of men whatsoever, I yet may take the liberty of saying, that I cannot recognise the fitness (I am unwilling to use a stronger word) of the first minister of the Crown thus publicly and officially holding up to indignation a solemn decree of one of the most eminent and venerated bodies, not only in England, but in Europe.

I must also venture to suggest a question, whether this be the happiest mode of testifying that "charity" which, I doubt not, your Lordship feels, but of which you deplore "the sad want in others;" or of allaying those "feelings of bitterness" which your Lordship, in common with all good men, must sincerely deprecate.

I have the honour to be, my Lord,

Your Lordship's most obedient servant,

H. EXETER.

*The Right Hon. Lord John Russell.*

The following is the correspondence alluded to in the above postscript:

MY LORD,—We, the undersigned lay members of the Church of England, beg leave to represent to your Lordship the deep concern with which we have heard the report of your intention to recommend Dr. Hampden to her Majesty, as the future Bishop of Hereford.

We have seen and heard enough of the strong feeling, both of laymen and of clergy, on this occasion, to convince us that the appointment, if persisted in, will stir up feelings of bitterness which would probably lead to consequences which your Lordship would deprecate as earnestly as ourselves.

We fervently hope, that these or other reasons may induce your Lordship to reconsider the case, before you finally advise her Majesty, to recommend for election to the vacant bishopric, a person who has been solemnly pronounced by his own University to be unworthy of its confidence as a teacher of Christian truth.

We are, my Lord, &c. &c.

*This address was signed by 485 lay members of the Church of England, including several Peers, Members of Parliament, &c.*

Chesham-place, Dec. 10

MY LORDS AND GENTLEMEN,—I have had the honour to receive your representation on the subject of my recommendation of Dr. Hampden to the Queen for the see of Hereford.

I am aware that there exists a strong feeling on the part of some laymen and clergymen against Dr. Hampden; but that the appointment should excite feelings of bitterness is, I hope, an error, as it would show a sad want of Christian charity on the part of those who would indulge such feelings.

The consequences with which I am threatened I am prepared to encounter, as I believe the appointment will tend to strengthen the Protestant character of our Church, so seriously threatened of late by many defections to the church of Rome. Among the chiefs of these defections are to be found the leading promoters of the movement against Dr. Hampden, eleven years ago, in the University of Oxford.

I had hoped the conduct of Dr. Hampden, as Regius Professor of Divinity, and head of a Theological Board at Oxford, had effaced the memory of that unworthy proceeding.

I have the honour to be, my Lords and Gentlemen, your obedient servant,

J. RUSSELL.

*To certain Lay Members of the Church of England.*

#### LETTER FROM THE BISHOP OF NORWICH.

Palace, Norwich, Dec. 1.

MY DEAR LORD,—On maturely considering the memorial which has been forwarded to me against the appointment of Dr. Hampden to the see of Hereford, not on the ground of any general unfitness for the office, or on any specific charge of heterodoxy, but because “the University of Oxford has affirmed, by a solemn decree, its want of confidence in the soundness of his doctrines,” I feel I cannot conscientiously sign it for the following reasons:—

1. Because I conceive that by such proceeding we are giving to an university censure an authority which in no way belongs to it, and which many of its most devoted friends have disclaimed. And further, that I can attach little weight to a decision emanating from Oxford on that occasion, bearing in mind that the movement against Dr. Hampden originated with a party suspected (how justly subsequent events have fully proved) of entertaining a strong leaning towards the Church of Rome. That the opinions, moreover, of many of those members of convocation who opposed Dr. Hampden were manifested with a bitterness of party spirit little creditable to them as members of a Christian community and a calm deliberative assembly; and that there is good reason for believing that the majority was obtained by votes given by many individuals who came up expressly for the purpose, though it was notorious that they had never read the works which they professed to condemn.

2. That even if the censure of 1836 were deserving attention, it was virtually repealed by a statute in the early part of 1842, which expressly appointed Dr. Hampden to the office of Examiner in the new Theological Examination, and which was, by several influential members of the University, understood to cancel the previous censure; and that in the summer of 1842, an attempt was actually made to repeal the censure of 1836, which very nearly succeeded, supported, as it was, by some of the most distinguished members of the University, amongst others, I believe, by no less than fifteen out of seventeen of the heads of colleges, and that it was opposed by a large portion of those well known for their Tractarian tendencies.

3. Because I believe Dr. Hampden to have been very unfairly treated, judged as he was by extracts separated from their context, and many of them obscurely worded, on

points involving deep metaphysical reasoning, requiring unprejudiced and dispassionate investigations to decide upon.

4. Because I consider that on other occasions, more especially in his inaugural letter, he has shown clearly, and unequivocally, and beyond all controversy, that his sentiments on those particular topics on which he was supposed to be unsound, were in accordance with the formularies of our Church and with the Holy Scriptures.

Such are the reasons for inducing me to withhold my signature to the memorial proposed by my right reverend brethren, expressive of their disapprobation of Dr. Hampden's appointment to the vacant see of Hereford.

I have only to add, though indeed I consider it scarcely necessary, that did I suspect Dr. Hampden in the slightest degree of holding opinions impugning the doctrines of the Trinity or Atonement, I should not have hesitated a single moment in requesting that my name might be affixed to the memorial, with my fullest concurrence and approbation of its object.

I remain, yours very truly,

E. NORWICH.

*To the Lord Bishop of ———.*

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LETTER FROM THE BISHOP OF RIPON TO THE BISHOP OF LONDON.

Palace, Ripon, Dec. 2, 1847.

MY DEAR LORD,—Although I do not feel myself at liberty to adopt all the expressions contained in the memorial about to be presented from several of my episcopal brethren to the head of her Majesty's government on the subject of the rumoured nomination of the Rev. Dr. Hampden to the see of Hereford, I would, nevertheless, desire to join in most respectfully but earnestly expressing my conviction, that unless his Lordship can be induced to pause before he forces on the election of Dr. Hampden, and to wait until some means be found of proving the groundlessness of those apprehensions which it has excited, there is the greatest danger of the further interruption of the peace of the Church, and of the disturbance of that confidence which it is most desirable that the clergy and the laity of the Church should feel in every exercise of the royal supremacy.

Believe me, my dear Lord,

Your very faithful friend and brother,

(Signed)

C. T. RIPON.

*The Lord Bishop of London.*

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The following copy of the *congé d'élire* to the Dean and Chapter of Hereford appeared in the *Gazette* of December 14, 1847:

“WHITEHALL, Dec. 11.—The Queen has been pleased to order a *congé d'élire* to pass the Great Seal of the United Kingdom and Ireland, empowering the Dean and Chapter of the Cathedral church of Hereford to elect a bishop of that see, the same being void by the translation of the Most Rev. Father in God, Dr. Thomas Musgrave, late Bishop thereof, to the see of York; and her Majesty has also been pleased to recommend the Rev. Renn Dickson Hampden, Doctor in Divinity, to be elected by the said Dean and Chapter, Bishop of the said see of Hereford.”

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## MEMORIAL OF THE DEAN OF HEREFORD.

*To the Queen's Most Excellent Majesty.*

MAY IT PLEASE YOUR MAJESTY,—We, your Majesty's most dutiful and loyal subject, John Merewether, Doctor in Divinity, Dean of the cathedral church of Hereford, most humbly lay before your Majesty the assurances of our deepest and most heartfelt attachment to your Majesty's sacred person and government.

We thank your Majesty for having graciously granted to us your royal licence to elect a Bishop of our Church, in place of the Right Reverend Father in God, Thomas, late Bishop thereof, and for "requiring and commanding us, by the faith and allegiance by which we stand bound to your Majesty, that we elect such a person as may be devoted to God, and useful and faithful to your Majesty and your kingdom."

We also dutifully recognise the goodness of your Majesty in accompanying this your royal licence with letters missive, graciously announcing to us, that out of "your princely disposition and zeal you are desirous," as we cannot doubt, "to prefer unto the same see a person meet thereunto."

And we further acknowledge your Majesty's gracious intention towards us in "naming and recommending unto us" by the same letters missive, Dr. Renn Dickson Hampden, your Majesty's Reader in Theology in your University of Oxford, to be by us "elected and chosen unto the said bishopric."

But we most humbly beseech your Majesty to permit us, as in duty bound, and in obedience to your Majesty's gracious command touching the qualities of the person to be chosen by us, to represent (and if it be deemed necessary, by sufficient documents to prove), that somewhat more than eleven years ago the said Dr. Renn Dickson Hampden, then being the late King William's Reader of Theology, the said University did, as by its laws, rights and privileges, and by the law of the land it is empowered, and on fit occasion bound to do, judge of the public writings of the said Dr. Hampden, and did solemnly decree, and by a statute in its House of Convocation duly made did enact, that the said Dr. Hampden should be deprived of certain weighty functions, importing the right of judging of sound teaching and preaching of God's word, which had been specially annexed by former statutes of the said University to his office therein; to wit, "that he be in the number of those by whom are appointed the select preachers 'before the University,'—and, further, that his counsel be taken in case of any preacher being called (as by the statutes of the said University every preacher who may have delivered any unsound or suspected doctrine in any of his preachings is liable to be called) into question before the Vice-Chancellor." And such deprivation of Dr. Hampden was expressly declared in the said statute to have been decreed "because in his said published writings he has so treated matters theological, that in this respect the University hath no confidence in him."

Furthermore, six years afterwards, the Convocation of the said University having been called together to consider the question of the fitness of repealing the said statute, so that the said Dr. Hampden might be restored to the functions of which he had been as aforesaid deprived, the said Convocation did thereupon solemnly decree that the statute should not be repealed, but should still be (and accordingly, it still continues to be) in full force and vigour; whereby the said Dr. Hampden stands to this day denounced by the judgment of the said University as "devoid altogether of its confidence in matters theological, by the reason of the manner in which those matters have been treated by him in his published writings."

And here we deem it our duty to your Majesty humbly to submit, that not only by the people and Church of England, but by all your Majesty's royal predecessors, the solemn decisions of either of your Majesty's Universities of Oxford and Cambridge on questions and matters of theology, have always been deemed to carry with them very high authority, and that such is the renown of these your Majesty's famous Univer-

sities throughout the reformed portion of Christendom, that every where their judgment is heard with reverence and honour.

Neither may we omit dutifully to lay before your Majesty, that to the office of a Bishop, to which we are commanded by your Majesty to choose "a person meet to be elected," essentially adheres the duty of judging of the doctrine of the clergy committed to his charge, especially of those who are to be instituted or licensed by him to the cure of souls—which high duty the University of Oxford has decreed, as aforesaid, that Dr. Hampden is, in its judgment, unfit to have confided to him; the distressing and disastrous consequences which must be expected to result from placing the diocese of Hereford, by the strong hand of power, under a person so characterized by so high authority, we are as unwilling as it would be painful to recount.

For all these reasons, and not least because, in common, as we believe, with almost every considerate churchman, we are desirous and anxious that the prerogative of the Crown in nominating to bishoprics should be for ever established on its only firm foundation, the confidence of the Church in the wisdom, the justice, the purity, the considerate and conscientious moderation with which it is exercised; we most humbly pray your Majesty to name and recommend some other person whom your Majesty shall think meet to be elected by us for our Bishop, or that your Majesty will graciously relieve us from the necessity of proceeding to the election till you shall have been pleased to submit Dr. Renn Dickson Hampden's published writings (so judged as aforesaid by the Convocation of the University of Oxford) to the judgment either of the two Houses of Convocation of clergy of the province of Canterbury, which is now sitting, or of the Provincial Council of Bishops of the same province, assisted by such divines as your Majesty or the said Provincial Council shall be pleased to call, or of some other competent tribunal which your Majesty shall be graciously pleased to appoint. In order whereunto we have appointed for the day of election the 28th day of December instant, being the eleventh day from the receipt of your Majesty's *congé d'élire*, and the last which we can lawfully appoint.

And we are the more emboldened to lay this our humble supplication at the feet of your Majesty, by your known cordial attachment to our holy and apostolic Church, and by your faithful and uniform observance of the oath made by your Majesty at your coronation,—“That you will maintain and preserve, to the utmost of your power, the doctrine, discipline, and government thereof.”

And even if it could be imagined that these last-mentioned considerations apply not to our case, we should nevertheless confidently rely on your Majesty's experienced regard for that dearest and most sacred right of every class and description of your Majesty's subjects, the right of liberty of conscience, and on your having at the head of your Majesty's councils a noble Lord, the proudest boast of whose illustrious house, as well as of his own public life, it hitherto has been, to assert that right for all men against all opponents—a right which would, in our persons, be trampled to the very dust if, in spite of all our just and reasonable reclamations, we be coerced under the threatened penalties of *præmunire* to elect for our Bishop a person whom we cannot conscientiously believe, so long as the aforesaid judgment stands against him, to be “meet to be elected” to that most holy office.

In conclusion, we would add our fervent prayer, as well as our most earnest hope, that your Majesty may long be permitted, by the King of kings, to reign in the hearts of all your subjects, the approved “Defender of the Faith,” “ruling all estates and degrees of men amongst us, whether ecclesiastical or temporal,” as is your sacred and undoubted right,—giving alike to all experience of the blessings of your just and beneficent government, and receiving from all the willing homage of grateful and confiding love. In witness whereunto we have affixed our decanal seal this 17th day of December, in the year of our Lord 1847.

(L.S.)



Answer returned by Sir George Grey to the foregoing Memorial.

“ Whitehall, Dec. 20, 1847.

“ SIR,—Lord John Russell having placed in my hands the petition addressed by you to Her Majesty, and transmitted in your letter to him of the 17th instant,

“ I have had the honour to lay the same before the Queen, and I am to inform you that Her Majesty has not been pleased to issue any commands thereupon.

“ I have, &c.,

“ G. GREY.

“ *The Very Rev. the Dean of Hereford.*”

LETTER FROM THE DEAN OF HEREFORD TO LORD JOHN RUSSELL.

MY LORD,—I have had the honour to receive your Lordship's letter, announcing that you had received my memorial to the Queen, and that you had transmitted it to Sir G. Grey for presentation to Her Majesty; and by the same post I also receive the information that Sir G. Grey had laid the same before the Queen, and that “ he was to inform me that Her Majesty has not been pleased to issue any commands thereupon.” Under these circumstances I feel compelled once more to trouble your Lordship with a few remarks.

Throughout the correspondence in which I have had the honour to be engaged with your Lordship, as well as in the interview which you were pleased to afford me on the subject of the appointment to the see of Hereford, it has been my object frankly and faithfully to declare to you the facts which have come to my knowledge, and the honest conviction of my mind. I desire still to act upon the same principle, and to submit to your Lordship finally, and as briefly as possible, the following considerations, upon which I feel constrained to adopt a course which, however I may apprehend it will not be entirely congenial to your Lordship's wishes, will, under the circumstances in which I am placed, obtain from your Lordship's candour the admission that it is the only course which I could pursue.

I crave your Lordship's indulgence whilst I enumerate the special obligations to which I am bound, and I state them in the order of their occurrence.

When matriculated to the University of Oxford, of which I am still a member, the following oath was administered to me, as well as on taking each of my degrees:—“*Tu dabis fidem ad observandum omnia statuta, privilegia, et consuetudines hujus Universitatis; ita Deus te adjuvet, tactis sacrosanctis Christi Evangeliiis.*”\*

Again—when I was admitted to the sacred orders of priest in the Church of God, a part of my ordination vow was expressed in these words—that I would “banish and drive away all erroneous and strange doctrines contrary to God's word.”

Again—when I was inducted, on occasion of the installation to the office which I hold in the cathedral church of Hereford, as I stepped over the threshold of the fabric, the restoration of which, for the due honour of Almighty God, it has been my pride and anxious endeavour to promote, I was required to charge my soul with this responsibility:—“*Ego, Joannes Merewether, Decanus Herefordensis, ab hac horâ in antea, fidelis ero huic sacrosanctæ Herefordensi ecclesiæ, necnon jura, libertates, privilegia, et consuetudines ejusdem, pro viribus observabo et ea manutenebo et defendam pro posse meo; sic me Deus adjuvet, et hæc sancta Evangelia.*”†

\* “Thou wilt pledge thy faith to observe all the statutes, privileges, and customs of this University, so help thee God, at the same time touching the holy Gospels of Christ.”

† I, John Merewether, Dean of Hereford, from this hour henceforward, will be faithful to this sacred Church of Hereford, and will observe the rights, liberties, privileges, and customs of the same according to my ability, and will maintain and defend them to the utmost of my power, so help me God, and these sacred Gospels.



My Lord, I cannot divest my mind of the awful sense of the stringency of those engagements at the present exigency. Let me entreat your Lordship's patience whilst I endeavour to explain my apprehension of them.

In my letter of the 1st of December, in reply to the second which your Lordship was pleased to address to me—and to which correspondence I trust your Lordship will permit me publicly to refer in vindication of my conduct, should need require it—I observed, “In regard to Dr. Hampden's tenets, I would abstain from any opinion upon them till I had again fairly and attentively read his writings.” That act of justice I have carefully performed, and, I will add, with an earnest desire to discover grounds upon which, in case of Dr. Hampden's ever occupying the high station for which he has been selected by your Lordship, my mind might be relieved from all distrust, and I might be enabled as cordially as possible to render that service which the relative duties of diocesan and dean and chapter involve.

It is painful in the extreme to feel obliged to declare that I discover in those writings many assertions—not merely references to theories or impressions of others—but assertions, which to my calm and deliberate appreciation appear to be heterodoxical, I believe I may say heretical, and very, very much, which is most dangerous, most objectionable, calculated to weaken the hold which the religion we profess as yet obtains, and ought to obtain always, upon the minds of its professors. I feel certain that the perusal of several of these works by any of that class who, “by reason of use,” (in cautious examination of such productions) “have their senses exercised to discern both good and evil,” would produce a doubt and distrust in the teaching of our Church, in her creeds,—her formularies,—her liturgy; would rob them of the inestimable joy and peace in believing, and be highly detrimental to the spread of true religion.

Such being my conviction, I would ask your Lordship how it must affect my conscience in reference to those solemn obligations which I have already detailed? I have sworn that I will observe all the statutes of the University of which I am still a member. The statute of that University touching this matter stands in the following words, at this moment uncanceled, unrepealed:—“*Quum ab universitate commissum fuerit, S. Theologiæ Professori Regio ut unus sit ex eorum numero a quibus designantur selecti concionatores, secundum Tit. xvi. § 8 (Addend. p. 154), necnon ut ejus consilium adhibeatur, si quis concionator coram Vice-Cancellario in quæstionem vocatur, secundum Tit. xvi., §. 11 (Addend. p. 151), quum vero qui nunc Professor est scriptis suis, publici juris factis, ita res theologicas tractaverit, ut in hac parte nullam ejus fiduciam habeat Universitas; statutum est, quod munerum prædictorum expers sit S. Theologiæ Professor Regius, donec aliter Universitati placuerit, ne vero quid detrimenti capiat interea Universitas, Professoris ejusdem vicibus fungantur alii, scilicet, in concionatores selectos designando senior inter Vice-Cancellarii deputatos, vel eo absente, aut ipsius Vice-Cancellarii locum tenente, proximus ex ordine deputatus (proviso semper quod sacros ordines suscepit) et in concilio de concionibus habendo, Prælector Dominiæ Margarette Comitissæ Richmondie.*” \* Should I not be guilty of deliberate perjury, if in direct defiance of such a decree, I did any act which should place the object of it in such a position as to be not only the judge of the soundness of the theological opinions and preaching of a whole diocese, but of those whom, from time to time, he must admit to the cure of souls, and even to the sacred orders of the ministry?

I have sworn, at the most awful moment of my life, that I will “banish and drive away all erroneous and strange doctrines contrary to God's word.” It may be replied, that this engagement applies to the ministrations in the cure of souls, inherent only in parochial functions; but the statutes of our cathedral church constitute me one of the guardians of the soundness of the doctrine which may be preached in that sacred edifice:—“*Si quid a quopiam pro concione properatur, quod cum verbo Dei, articulis*

\* See page 2, for a translation of this statute.

*Religionis, aut Liturgiæ Anglicanæ consentire non videtur, eâ de re, Decanus atque Residentiarii, quotquot audierunt, Dominum Episcopum sine morâ per literas suas monebunt.*"\* With what confidence, or what hope of the desired end, should I communicate such a case to a bishop whose own soundness of theological teaching was more than suspected? Should I not be guilty of a breach of my ordination vows, if I did not protest against the admission of such a person to such a responsible post, and endeavour to "banish and drive away," by all lawful means, that person of the 18,000 clergy of this land, on whom the censure and deprivation of one of the most learned and renowned seminaries of religious teaching in the world is yet in its full operation and effect—one who is already designated thereby as a setter forth of erroneous and strange doctrines? Again, I have sworn to be faithful to the cathedral church of Hereford. Faithful I could not be, either as to the maintenance of the doctrine, or the discipline of the church in those respects already alluded to, or the welfare and unity of that church, either in the cathedral body itself or in the diocese at large, under existing circumstances, if, by any act of mine, I promoted Dr. Hampden's elevation to the episcopal throne of that church and diocese. Faithful I have laboured to be in the restoration and the saving of its material and venerable fabric. Faithful, by God's help, I will strive to be, in obtaining for it that oblation of sound and holy doctrine which should ascend, together with the incense of prayer and praise, "in the beauty of holiness," untainted and unalloyed by any tincture of "philosophy and vain deceit, after the tradition of men, after the rudiments of the world, and not after Christ."

But your Lordship may reply, there is another oath by which I have bound myself, which I have as yet overlooked. Not so, my Lord. Of my sentiments on the royal prerogative I have already put your Lordship in possession. When I warned you of the consequences of your appointment, of the tendency which it would produce to weaken the existing relations between Church and State, I fully recognised the just prerogative of the Crown; and when I thought I had not sufficiently dwelt upon it, I wrote a second time to make myself distinctly understood.

Nor is it only the sense of legal obligation which would constrain me to a dutiful regard to such observance. Few men have a greater cause to feel their duty in this respect, warmed by the sense of kindness and condescension from those of royal station, than myself. The memory of one who anxiously contemplated the future happiness and true glory of his successor, fixed indelibly those sentiments upon my heart. And, if for his sake only, who could to a long course of almost parental kindness add, in an affecting injunction, the expression of his wishes for my good upon his death-bed, I should never be found forgetful—even although I may never have taken in the present reign the oath of allegiance—of that loyalty and devotion to my Sovereign which is not less a duty of religion than the grateful and constitutional homage of an English heart. Forgive me, my Lord, for the reflection on that death-bed injunction, if I say, that, had it been observed,—as but for political and party influence it would have been,—your Lordship, the Church, and the nation would have been spared this most unhappy trial, the results of which, as I have already again and again foreboded to your Lordship, it is impossible to foresee. Nor, under any circumstances, is it likely that the obligation of the oath of allegiance in my person will be infringed upon: its terms are, that "I will be faithful and bear true allegiance;" and, accordingly, the *congé d'élire* has these expressions, "requiring and commanding you, by the faith and allegiance by which you stand bound to us, to elect such a person for your bishop and pastor as may be devoted to God, and useful and faithful to us and our kingdom."

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\* If a thing be propounded by any one before the assembly which does not appear to agree with the word of God, the Articles of Religion, or the English Liturgy, the Dean and Residentiaries, as many as have heard it, shall without delay advise the Lord Bishop of that matter by their letters.

Would it be any proof of fidelity or true allegiance, my Lord, to elect a person as "meet to be elected," who was the contrary to those requirements? And can it be possible that, in the course of Divine service in the chief sanctuary of Almighty God in the diocese, however named and recommended, a person should be "unanimously chosen and elected" in the awful falsification of these words, in the presence of God, against the consciences of the unhappy electors, simply because the adviser of the Crown (for "the Crown can do no wrong") has in his short-sightedness and ignorance of facts (to say the least) thought fit to name an objectionable person, the one of all the clergy of the land so disqualified; and, when warned of the consequences by the voices of the Primate, of thirteen bishops, and hosts of priests and deacons, clergy and laity by hundreds, of all shades of opinions in the Church, persisted in the reckless determination?

In the words of an eminent writer of our Church, "All power is given unto edification, none to the overthrow and destruction of the Church," (Hooker's Ecclesiastical Polity, book viii. chap. 7) and the matter is perhaps placed in the true light and position by the learned author of "*Vindiciæ Ecclesiæ Anglicanæ*"—Francis Mason; the whole of which is well worthy of your Lordship's notice. I venture to supply a brief extract; (book iv. chap. 13, 1625:)

"Philodoxus.—You pretended to treat of kings electing bishops and conferring of bishoprics, and now you ascribe not the election to kings, but to the clergy, and claim only nomination for kings?

"Orthodoxus.—The King's nomination is, with us, a fair beginning to the election. Therefore, when he nominates any person he elects him, and gives, as I may say, the first vote for him.

"Philodoxus.—What kind of elections are those of your deans and chapters? 'Tis certain they can't be called free elections, since nothing is to be done without the King's previous authority.

"Orthodoxus.—The freedom of election doth not exclude the King's sacred authority, but force and tyranny only. If any unworthy person should be forced upon them against their will, or the clergy should be constrained to give their voices by force and threatening, such an election cannot be said to be free. But if the King do nominate a worthy person, according to the laws, as our Kings have used to do, and give them authority to choose him, there is no reason why this may not be called a free election; for here is no force or violence used.

"Philodoxus.—But if the King, deceived by undeserved recommendations, should happen to propose to the clergy a person unlearned, or of ill morals, or otherwise manifestly unworthy of that function, what's to be done then?

"Orthodoxus.—Our Kings are wont to proceed in these cases maturely and cautiously, I mean with the utmost care and prudence; and hence it comes to pass that the Church of England is at this time in such a flourishing condition.

"Philodoxus.—Since they are but men they are liable to human weakness; and therefore what's to be done, if such a case should happen?

"Orthodoxus.—If the electors could make sufficient proof of such crimes or incapacities, I think it were becoming them to represent the same to the King, with all due humility, modesty, and duty, humbly beseeching his Majesty, out of his known clemency, to take care of the interest of the widowed Church; and our Princes are so famous for their piety and condescension, that I doubt not that his Majesty would graciously answer their pious petition—and nominate another unexceptionable person, agreeable to all their wishes. Thus a mutual affection would be kept up between the Bishop and his Church."

Nor is this a mere supposition, but there are instances in the history of this kingdom of such judicious reconsideration of an undesirable appointment. I will cite but one from "*Burnet's History of his Own Times*, A.D. 1693, vol. iv, p. 209. London, 1733:"

The state of Ireland leads me to insert here a very particular instance of the

Queen's pious care in disposing of bishoprics. Lord Sidney was so far engaged in the interest of a great family in Ireland, that he was too easily wrought on to recommend a branch of it to a vacant see. The representation was made with an undue character of the person; so the Queen granted it. But when she understood that he lay under a very bad character, she wrote a letter in her own hand to Lord Sidney, letting him know what she had heard, and ordered him to call for six Irish Bishops, whom she named to him, and to require them to certify to her their opinion of that person. They all agreed that he laboured under an ill fame, and till that was examined into they did not think it proper to promote him; so that matter was let fall. I do not name the person, for I intend not to leave a blemish on him, but set this down as an example fit to be imitated by Christian Princes."

But, alas! remonstrance seems unheeded, and if our venerable Primate and thirteen Bishops have raised their united voice of warning and intreaty to no purpose, it is no marvel that my humble supplication should have pleaded in vain, for time—for investigation—for some regard to our consciences—some consideration for our painful and delicate position.

The time draws near—on Tuesday next the semblance of an election is to be exhibited. I ventured to assure your Lordship that I could not undertake to say that it would be an unanimous election; I was bold enough to affirm that it would not be unanimous; and I, in my turn, received the intimation and the caution, I will not say the threat—that the law must be vindicated. Already have I assured your Lordship that the principle on which this painful affair is regarded, is that of the most solemn religious responsibility; thousands regard it in this light. I have already told you, my Lord, that the watchword of such is this—"Whether it be right in the sight of God to hearken unto you more than unto God, judge ye." I have anxiously implored your Lordship to pause—to avert the blow. I have long since told you the truth. I have endeavoured to prevent, by every means in my power, the commotion which has arisen, and the necessity of the performance of a painful duty. I hoped the *congé d'élire* would not be issued until a fair inquiry and investigation had been instituted. A suit has been commenced in the ecclesiastical courts—why not have waited its issue? When the *congé d'élire* did appear, I at once presumed, humbly but faithfully, though I stood alone, to petition the Crown; and now, when I am officially informed, "that Her Majesty has not been pleased to issue any commands thereupon," I feel it to be my bounden duty, after a full and calm deliberation on the whole subject, having counted the cost, but remembering the words of Him whose most unworthy servant I am—"He that loveth house or lands more than me is not worthy of me"—loving my children dearly, and ardently desiring to complete the noble work which I have for seven years laboured to promote, yet not forgetting that there is an "hour of death and a day of judgment," when I trust, through the merits of my Redeemer, to be allowed to look up with hope, that I may be considered by the intercessions of mercy and pity to have been faithful in the hour of trial, to have "fought the good fight, to have kept the faith, to have finished my course,"—believing that I risk much, and shall incur your Lordship's heavy displeasure, who may, if you will, direct the sword of power against me and mine—being certain that I preclude myself from that which might otherwise have been my lot, and expecting that I shall bring down upon myself the abuse and blame of some—I say, my Lord, having fully counted the cost, having weighed the sense of bounden duty in the one scale, against the consequences in the other, I have come to the deliberate resolve, that on Tuesday next no earthly consideration shall induce me to give my vote in the chapter of Hereford Cathedral for Dr. Hampden's elevation to the see of Hereford.

I have the honour to be, my Lord,

Your Lordship's faithful humble Servant,

Hereford, Dec. 22.

JOHN MEREWETHER, Dean of Hereford.

The following Letter was addressed to the Dean of Hereford, in Reply to the foregoing :—

Woburn Abbey, Dec. 25, 1848.

SIR,—I had the honour to receive your letter of the 22nd inst., in which you intimate to me your intention of violating the law.

I have the honour to be, your obedient Servant,

J. RUSSELL.

*The Very Rev. the Dean of Hereford.*

DR. HAMPDEN'S LETTER TO LORD JOHN RUSSELL.

MY LORD,—It is indeed painful to an honest mind to have to answer a charge of unfaithfulness to a high trust. And what else is the charge alleged by certain parties, who are reviving a clamour against me, and agitating the clergy with their jealousies and alarms, but that of unfaithfulness to my engagements to the church of which I am a minister? If a person holds not in sincerity the doctrines of the church to whose ministry he has been called—if he is nominally and professedly in the church, but in heart dissents from, or is indifferent about, its faith—what is this, which is the substance, as far as appears to me, of what has been advanced against me, but an imputation of the grossest dereliction of religious and moral duty?

In ordinary circumstances, I might treat such an attack with silent contempt. But there are occasions which demand a sacrifice of feeling. And the present appears to be such an occasion, when, by thus publicly addressing your lordship, I shall at once discharge a duty to her most gracious Majesty, and to yourself, my Lord, the first minister of the Crown; and may hope, at the same time, by a simple statement of the truth, to tranquillize the minds of humble and earnest Christians, who may have been perplexed by the impassioned appeals made to them against me.

It is, as I have said, a painful trial to have to encounter such most groundless but most unrelenting enmity. After a devoted service in the ministry of the gospel for more than a quarter of a century, of which the last twelve years have been divided between the labours of the divinity chair and parochial ministrations, I might well be excused from replying to accusations which my whole life, passed under the eyes of men, and in the presence of that all-seeing God who tries the heart, effectually refutes—from being required to deny having impugned those vital truths of our holy faith which it has been my constant study to uphold and enforce.

Alas, my Lord, how commonly in the jealousies and heart-burnings of the polemical spirit is that precept of the divine law, "Thou shalt not bear false witness against thy neighbour," carelessly violated! The promotion of certain views, or the depression of an antagonist, is too often regarded by the corrupt human heart as a warrant for any excess of uncharitableness, and even for untruth.

If ever there was a time when the circumstances of the church presented a temptation to this offence, it is the present. The church has now for many years been grievously troubled by what is familiarly known as the Tractarian movement—an organized agitation for the purpose of secretly revolutionizing the church of this country, for unprotestantizing it, as it has been said by some of the party, or "developing the catholic principle latent in it." With what effect the movement has been working, is but too evident. Not only have numbers been seduced from the church of their fathers to the corrupt church of Rome, but among such, many even of the clergy, forgetting their ordination vows, and their sacred obligation to the church which carried them to Christ in baptism, have led the way in the apostasy. Nor has the evil been stopped by these open secessions. Many remain among us deeply infected with the same principles which have carried others openly to Rome. These consist chiefly of

the younger clergy, ready, as late events have shown, to respond to the call of their leaders, and to throw the weight of their numbers into any question of high interest to their party. In such a state of things, no one's theological or pastoral character is safe. Any one who is adverse to the designs of the party, and whom it may be worth while to attack, cannot expect to escape. Nothing is easier, in such times of excitement, than to collect a number of signatures of persons whose names are already registered with their leaders, and to make such persons zealous and active men—as they are for the most part, eager to prove their chivalry in the cause—centres of agitation in different parts of the country.

Nor is it any thing strange, or novel, my Lord, which is now happening. From the Scriptures we learn how the apostles themselves, following their Lord in his persecutions, were reviled and evil-entreated by their brethren. In our own country, the learned author of the “Defence of the Nicene Faith,” Bishop Bull, had to complain of a charge of Socinianism, brought against him by a brother minister of the church. And before him, even the excellent Hooker had to defend his opinions, delivered in sermons at the Temple, against the exceptions of an opponent from the same pulpit; and at a later period of his life, amidst the simplicity and blamelessness of his daily conversation, to resist a scandalous attack on his character, which nearly bowed him to the grave. And thus Archbishop Tillotson complains, in one of his sermons, of the evil tongues of his days:—“I know not,” he says, “how it comes to pass, but so it is, that every one that offers to give a reasonable account of his faith, and to establish religion upon rational principles, is presently branded for a Socinian. . . . But if this be Socinianism, for a man to inquire into the grounds and reasons of Christian religion, and to endeavour to give a satisfactory account why he believes it, I know no way, but that all considerate, inquisitive men that are above fancy and enthusiasm, must be either Socinians or Atheists.”

Let me, then, I would say, my Lord, be instructed and encouraged by those and other like examples, to submit with patience to His will who, in the mystery of His providence, has appointed for good that I, humble servant of His as I am, should pass through this ordeal of calumny. What is most afflicting in it is, that I am accused of detracting from His glory, and the infinite merits of His blessed atonement. He knows, however, that I have not done so. I am solaced and strengthened with this thought. I hope, therefore, calmly to address myself to the objections which my importunate adversaries, with all the vehemence of an electioneering contest, are recklessly throwing out against me. Let me endeavour to silence that conflict of feelings within my own heart, which so unmerited and so base a charge naturally excites.

First, then, my Lord, I most solemnly deny the scandalous imputation. As an honest man, I say I do not, and never did, for one moment of my life, in thought or word, hold or maintain any other doctrine respecting our Lord's most holy person and his blessed work of redemption, than that which is plainly set forth from Scripture in the Articles and Formularies of our church. I hold, too, and have ever held most firmly, the full doctrine of the Holy Trinity, as stated on the same authority, in the same documents of the church.

Nay, I go on to say, with the utmost confidence of my sincerity, that I have on every occasion exerted myself to defend these holy truths, which I believe, not with a mere assent, but really love and delight in. My conviction has been, that no sermon, no exposition of religious doctrine, or exhortation to religious conduct, could have any unction of spiritual instruction, any living power to teach or to persuade, which did not derive its strength from these holy and lovely truths, which describe to us God the Father giving his only-begotten Son, his co-equal in majesty and power, “to the end that all that believe in Him should not perish but have everlasting life;” God the Son giving Himself in love, taking on Him our nature, and born into the world, living and dying for us men, and for our salvation; God the Holy Ghost, proceeding from the



Father and the Son, the third person in the blessed Trinity, sent down with holy comfort from the Saviour, to instruct and guide the church through all ages.

These great revealed verities, no mere opinions collected by speculative reasoning, but the manifest indisputable teaching of Scripture,—without which Scripture would not be what it is,—I have, then, ever taught and enforced, both as most certain and as most necessary to be believed.

It is not my teaching, whatever may have been attempted to be shown by prejudiced adversaries, that the doctrines of Scripture or any other of its great fundamental truths,—such as original sin, justification by faith, preventing and assisting grace, the efficacy of the two sacraments instituted by our Lord,—are nothing more than theories formed by the human mind on the text of Scripture. It is a very great mistake to suppose that I have ever meant this, in what I said of the force of theory, in my Bampton lectures or elsewhere. It is one thing to endeavour to unfold the theories on which a particular phraseology employed in the systematic statement of divine truths has been framed and adapted to its purpose; and quite another thing, to state that the truths themselves, which that phraseology expresses, are mere theories, or mere opinions, or probable conclusions, having no positive certainty in them. This latter misconstruction belongs to those who have taken it up. It is not mine; it has no warrant in any thing that I have said in theological discussion. My Bampton lectures, indeed, were not written for popular reading, but for such as should come to the study of the subject with some previous knowledge, both of theological questions and of ancient philosophy. It is no wonder, then, that they should be open to misrepresentation to ordinary readers. I should be much concerned if, from any unskilfulness in the use of words, I should have given rise to misapprehension. I would not assert, however, that I have always succeeded in conveying my thoughts exactly. But I am not, at any rate, to be blamed for some mistakes, or rather, perversions of my meaning. For this I know, that arguments which I have advanced in support of the truth, have, in many instances, by an artful selection of detached words, been represented as upholding the very errors which they refuted.

But whatever has been done by hostile and uncandid expositors in the way of perverting or obscuring my meaning, I have the satisfaction of knowing that many honest and intelligent minds have apprehended my true intent, and appreciated my labours. Thus, for instance, this or that person would not or could not see, that it is a strong argument for the truth of the catholic doctrine of the Trinity, that even heretics (as I have urged) have in some sense professed it, however imperfectly and injuriously; thus acknowledging the truth amidst their vain attempts to corrupt and destroy it, unconsciously bearing testimony to its existence in disputing it; and the truth itself showing its vital strength in surviving their attacks.

Many such instances of cruel misrepresentation I could allege. But I will not weary your Lordship's patience. Let me, however, be suffered to say, what I would fain have remembered only in thanksgiving to Him whose grace enables us to think or do anything good, that I have reason to bless God that in one instance at least I have not laboured in vain; but that a person, now a pious and distinguished minister of Christ, was confirmed and fixed, by what I have advanced on the subject of the Trinitarian controversies, in the true faith of that holy mystery. And does not this one fact more than outweigh the assertions of a thousand anonymous writers in newspapers, copying one another, and repeating the original false statement of the first mistaken or misrepresenting commentators?

Most sincerely, then, and most firmly, do I believe, that there is but one catholic faith—one invariable standard of orthodox truth; and that all departures from this, consequently, are errors of doctrine and corruptions of the faith, and not that “form of sound words” which God has set forth to us in his revelation.

*I challenge my impugnors to disprove this assertion of my belief, not by sophistical*

constructions, not by garbled quotations, such as the public has been too familiar with from their hands, not by mere verbal inferences, not by the false colouring of their own minds, or by the shadows cast from their own theories; but from plain and direct assertions, qualified and explained, as all assertions must be, by the context and other passages, and the general tenour of my writings. They have hitherto kept certain portions of my publications as much as possible out of view. They have continued repeating certain sentences, or half sentences, as if these were so many oracular dicta of mine, striking ever on the same note which they once found to awaken a chord in the minds of the uninformed or the prejudiced, skilfully, indeed, as tacticians, but most dishonestly as men. Let them, then, abandon these mere party polemics. Let them fairly show, if they can, where I have expressed the slightest doubt of the truth, or of the importance, of the great Christian doctrines which are the foundation of our faith. I may appeal to any of my sermons, preached or published, (I include, in this reference, a volume of "*Parochial Sermons*," published by me in 1828, and since reprinted,) and to every course of lectures delivered by me, whether public or private, as Regius Professor of Divinity.

But, my Lord, whilst I fully believe that there is but one catholic faith, I am not required by this persuasion to treat disrespectfully or uncharitably all that differ from us, or that conscientiously declare that they, for their part, cannot learn that faith from the Bible. I would do nothing to encourage dissent from the church. It grieves me whenever I see it. But at the same time, I am for a full toleration, if dissent be only open and avowed; a toleration that is, extending not only to the grant of civil privileges to dissenters, but to the equitable and kind consideration of their statements and arguments, as well as of their feelings. I would try to win them over—I would not exasperate them. I would not presume to surrender God's truth, which is not mine to give away, or to call error and falsehood by the sacred name of truth. But, as for candid and indulgent consideration for the persons of those who are in error, this is in every man's power, and is every Christian man's bounden duty to give. This, then, I would not withhold even from those who have departed the furthest from the true faith.

If, accordingly, on any occasion, I have ventured to call Unitarians Christians, surely this must be understood in the wide charitable sense of the term—not in that strict sense in which it belongs to a believer in the divinity and the blessed atonement of our Lord, but in a sense not unlike that in which it is used in our liturgy, when we pray for "all who profess and call themselves Christians," that they "may be led into the way of truth," &c. What I may have said, then, in charity of the persons, or of the modes of reasoning, of misbelievers, cannot in any fairness be understood as indulgence to their tenets. I repeat, I not only regard the doctrines of the Holy Trinity, and of the incarnation and atonement of our Lord, and the salvation of man through faith only in him, with the truths arising out of, and closely connected with, these great doctrines, as most certain, but, further, as vitally important to be believed in order to a saving faith and a right practical religion. So intimate, indeed, I conceive is the connexion between a sound theology and a right religious conduct, that they alone can properly be said to have a right religion who have a sound theology. Still, the two terms, theology and religion, admit of being separately defined, according to the proper notion of each. For so St. James speaks of "pure religion, and undefiled before God;" pointing out the practical moral duties, the charity and purity of life, wherein it consists. Surely, no one can justly suppose from this, that St. James dispenses with a sound theology, as the basis of that religion which he describes. Nor ought I to have been construed as divorcing a sound theology and a right religion.

I have insisted indeed, my Lord, constantly, on the supremacy of Scripture as our rule of faith; and what consistent member of the church of England does not? But this very assertion of the supremacy of Scripture has been taken up invidiously by



some, as if I rejected altogether the authority of the church, and undervalued its importance as a visible institution of Christ's religion. This, however, cannot by any means be justly said of me. I have ever taught that a deferential respect to the authority of the church, as it is laid down and explained in the formularies of our church, was most incumbent on Christians, though certainly not that high and transcendent respect which is due to the inspired word alone. But the fact is, that many of those who are now objecting to me, will be satisfied with no view on this subject which is not virtually the same as that of Rome,—ascribing to the church not only an authority of order, such as is claimed in our Articles, but an absolute authority for propounding matters of faith, and requiring its decisions to be received with unquestioning submission by its members. The church, in their view, is not simply "the witness and keeper of Holy Writ," but the depository of revealed truth, the authoritative interpreter of Scripture, without which Scripture is conceived by them to speak an uncertain sense.

But what is this but to suppose that the church is endued with an infallible authority? For, unless it can pronounce infallibly, how can the Christian be required to receive its decisions as divine truths obligatory on his faith?

This notion, however, of church authority will be found to be the root of the objections of this class of theologians to the teaching of all who require that all doctrines should be drawn from Scripture. With them the reference to Scripture is an "heretical principle," because it holds up the authority of Scripture over that of the church in all questions of doctrine. Hence that animosity against all who thus establish the articles of faith, and their unchecked boldness in repeating charges of heresy against any confession of faith, however sound in itself, which claims to be simply scriptural in its authority. A person in their view is no believer, who does not hold their "church principles"—that is, who does not build his faith on the church in their sense.

But, my Lord, I must notice, before I conclude, the hollow pretence of those who are resting their objections to me on the statute of the University passed in 1836.

I think it will be found, that some of those who are urging this point were the most active instruments themselves in carrying that illegal measure. Men are naturally unwilling to acknowledge their wrong. More is the honour due to those excellent persons who have not wished that day of excitement to be remembered against me, but would now gladly erase the record of it. But it is distressing to see, that there are others who would fall back on their own wrong, and would take a false advantage from it, to justify themselves to themselves and to the public.

That statute, however, I would observe, has been virtually repealed by two subsequent proceedings in the University; in the first place, by the New Theological Statute of 1842, which placed me, as Regius Professor, at the head of a newly constituted board of Theological Examiners; and then, in the same year, by the just act of the chief authorities of the University, with whom rests the initiative of every measure, the board of heads of houses and proctors, who unanimously proposed a form of statute for rescinding it. So far, then, as the chief responsible body of the University is concerned, I am relieved of the burden of that statute; though the Tractarian party succeeded, with a very reduced majority, however, in throwing out the measure in Convocation.

And is not the history of that statute perfectly understood? How can any venture to put it forward now, when by such an act they are implicating themselves with the theology and the spirit of its chief promoters? Every one knows, that the editors of the "Tracts," and others following in their wake, were the great instruments in the work of calumny on which it was founded. A pamphlet, full of gross misrepresentation of my writings, the production of Mr. Newman, was circulated through the country. And the calumnies thus spread abroad concurred with the great political excitement of the times, in obtaining a majority against me; not, however, even then, until after a

repulse on the first assault by the firm and spirited intervention of the proctors. How, then, can any wish to sympathize or identify themselves with the chief actors of that day? Where is Mr. Newman now, let me ask, the principal mover then? What are the rest doing—his old associates whom he has left—but training others to imbibe the spirit of their great leader, reluctant as they may be to follow him throughout?

With what real truth, therefore, can it be said that, as certain persons seem to take an unenviable pleasure in repeating, I am under “the censure of the University?” I am not, my Lord, in truth. In fact, the statute referred to no opinions or doctrines whatever, but only to the *manner* of treating theological subjects. When, indeed, a censure of the University is passed, certain propositions are selected from the author’s writings, and the decree of Convocation condemns those particular propositions. This was done recently in the case of Mr. Ward, the author of the “Ideal of the Christian Church.” Nothing of the kind was done in my case; nothing specific was ever alleged against me.

Certainly, whatever may have been the first design of the statute referred to, it has had no effect. It has been practically a dead letter. I have continued to preach and lecture in the University without any diminution of attendance or respect on account of it. No Divinity Professor before me, I believe, has been better attended, or received more marks of confidence from his hearers.

Then, my Lord, if further witnesses are needed to my character as a Christian minister, let the thousands who have heard my sermons and my lectures speak for me. Again, let any of my parishioners, who have known my manner of life and conversation now for twelve years past, and my whole ministry among them,—in the church, in the school, and from house to house—be called to give their evidence. But let not the public be deluded into a rash and false judgment, by anonymous slanderers in newspapers. Nor let an undue weight be attributed to meetings convened by circulars sent through the country, under the instigation of a few individuals, who are for the most part well known adversaries, not only of me, but of all that is Protestant in our church.

I trust, my Lord, I have not exceeded that reserve which becomes me in addressing your lordship. I am sure you will not wonder at my feeling strongly on an occasion of such solemn interest to me.

I have the honour to be, my Lord, with every sentiment of respect,

Your Lordship’s greatly obliged and faithful servant,

R. D. HAMPDEN.

Christchurch, Dec. 9, 1847.

#### DECLARATION OF THE CLERGY OF THE ARCHDEACONRY OF LONDON.

Charterhouse, December 16, 1847.

REVEREND SIR,—A requisition has been presented to me, signed by several of the clergy of my archdeaconry, to convene a meeting for the purpose of considering “what course should be taken with respect to the rumoured appointment of Dr. Hampden to the see of Hereford;” but as I have great doubt as to the expediency of holding such a meeting, I have thought it the more convenient course to draw up the accompanying declaration, and to send a copy of it to each of the clergy of my archdeaconry.

The declaration, to which I have affixed my own name, will remain for a few days in the Library of Sion College, in order to allow such of the clergy as approve of it the opportunity of adding their names.

I am, Reverend Sir, yours faithfully,

W. H. HALE.

*[Form of Declaration.]*

We, the archdeacon and clergy of the archdeaconry of London, whose names are hereunto affixed, having learned that the expediency of the nomination of the Regius Professor of Divinity in the University of Oxford to the see of Hereford has been publicly called in question by several of the prelates of our church, and being also aware that a statute was passed in the year 1836. in the convocation of the University of Oxford, in which the writings of the said Regius Professor were stated to be the ground of his exclusion from the performance of certain duties heretofore confided to the Regius Professor—do hereby declare our opinion, that it is the duty of her Majesty's ministers not to interpose the authority of the Crown against any legal proceedings, which may afford to Dr. Hampden the opportunity of justifying his appointment to the vacant see, by proving before a proper tribunal the conformity of the opinions contained in his writings with the doctrines and discipline of the Church of England.

We deem it due to ourselves also to state, that while we disavow any desire to impede the exercise of the royal prerogative in the nomination of bishops to vacant sees, we cannot contemplate without alarm the prospect of a really compulsory election and confirmation of a bishop; nor consider such a proceeding, however sanctioned by statute-law, in any other light than as a withholding from the Church of England that liberty which is now essential to the preservation of her purity, and the maintenance of her integrity.

## ELECTION OF DR. HAMPDEN.

**TUESDAY, DECEMBER 28, 1847.**—This being the day appointed for the Election of a Bishop of the diocese of Hereford, at eleven o'clock the Very Rev. John Merewether, D.D., the Dean, with the Canons Residentiary, some of the Prebendaries, and the officials of the Cathedral, proceeded to the Lady Chapel, which was used for a Chapter-house. There were present—the Rev. H. H. Morgan, B.D., Rev. H. Huntingford, D.C.L., the Hon. Lord Saye and Sele, D.C.L., Rev. Canon Musgrave, Rev. E. Howell, Succentor, Mr. Chancellor Morgan, and the Rev. James Garbett, Sub-Treasurer, the Ven. Archdeacon Wetherell, B.D.; and the following Prebendaries, the Rev. C. S. Luxmoore, the Hon. and Rev. Orlando Forrester, the Hon. and Rev. J. Somers Cocks, the Rev. J. Johnson, the Rev. R. Biscoe, Rev. C. Taylor, Rev. W. E. Evans, Rev. G. F. Lewis, Rev. R. L. Freer, and others.

The DEAN, addressing the Chapter, said—Before the proceedings commence, I wish to ask, as reference is made in this document (the *congé d'élire*) to a supplication having been made by the Dean and Chapter to Her Majesty—I wish to know what supplication has been made.

Mr. UNDERWOOD (Chapter Clerk.)—None whatever, sir.

The DEAN.—Then none has been made.

The DEAN then further stated that he had received several memorials in addition to those he had already laid before them—(the table was covered with these documents, amounting, we believe, to upwards of seventy, from all parties in the Church)—requesting them not to proceed with the present election. He need not go into them now, but would lay them with the others upon the table.

The Dean and Chapter then proceeded from the Chapter-house unto the choir, where the services of the day were proceeded with. After the reading of the first lesson, they proceeded again to the Chapter-house, when the following letter of citation was read by the clerk, and the names of the members called over.

“John Merewether, Doctor of Divinity, Dean of the Cathedral Church of Hereford, and the Chapter of the said Church, to our beloved in Christ John Davis, Richard Downie, and Edward Stanton Jones, literate persons, jointly and severally greeting: whereas the episcopal See of Hereford is now void and destitute of a Pastor by the translation of the Right Rev. Thomas Musgrave, the late Lord Bishop thereof, to the Archbishopric of York, we, therefore, the Dean and Chapter aforesaid, having received the Queen's Majesty's licence for electing another Bishop, have fixed and appointed Tuesday, the 28th day of December instant, for such election, to be made in the Chapter-house in our said Cathedral Church, between the hours of ten and twelve in the forenoon of the same day, with continuation and prorogation of the said hours, day and place, from thence following, if it shall be necessary, and have decreed that all and singular the Canons or Prebendaries of the said Church that have a right to vote on the said election, should be cited to appear at the said day, time, and place, to proceed and see proceedings made in the business of the said election, and in all and singular the acts and things which, according to the usage and custom of the said Cathedral Church, and the laws and statutes of England may be necessary; and as the present state and condition of the said Church may either allow or require. Wherefore, we empower and command you jointly and severally, to cite or cause to be cited peremptorily, all and singular, the Canons and Prebendaries of the said Cathedral Church, by showing to them severally these presents (if it may conveniently be done), and by publicly affixing the same on the door at the west end of the choir, and also on the door that openeth into the Chapter-house of the said Church, and afterwards by affixing and leaving on each of the said doors respectively a true copy of these presents, and also

by all lawful ways, means, and methods whatsoever, whereby you can or may better or more effectually, so that this citation may most likely come to the knowledge of them so to be cited (whom by the tenor of these presents we do also cite), that they and every one of them appear before us in the Chapter-house aforesaid on Tuesday, the 28th day of December instant, between the hours of ten and twelve in the forenoon, with continuation and prorogation of the days and hours from thence next following, and of places, if it shall be necessary, to proceed and see proceedings in the said business of election, and in all necessary acts, even to the finishing and perfecting thereof inclusively, to be done, and to do and perform all other things which the nature and condition of the said election may require. Moreover, that you intimate or cause to be intimated peremptorily to all and singular the persons aforesaid (to whom we do hereby also intimate) that if they do not appear at the day, time, and place aforesaid, we nevertheless will then proceed, according to law and custom, in the said business of election, and to finish the same, their absence in anywise notwithstanding, and that what you shall do in the premises you, or either of you, that shall execute this our mandate, shall duly certify to us at the day, time, and place aforesaid. In witness whereof we have caused our common seal to be set to these presents.

“Dated this 18th day of December, in the year of our Lord, 1847.

“RICHARD UNDERWOOD, Chapter Clerk.”

The following documents, the *congé d'élire* and the *letter missive*, were then read:—

#### THE CONGÉ D'ÉLIRE.

“Victoria, by the grace of God, &c., to our trusty and well-beloved the Dean and Chapter of our Cathedral Church of Hereford, in the Diocese of Hereford, greeting—

“Supplication having been humbly made to us on your part, that, whereas the aforesaid Church is now void and destitute of the solace of a Pastor, by the translation of the Right Rev. Father in God, Thomas, late Bishop of Hereford, we would be graciously pleased to grant you our leave and licence to elect you another Bishop or Pastor, we, being favourably inclined to your prayer in this behalf, have thought fit, by virtue of these presents, to grant you such leave and licence, requiring and commanding you, by the faith and allegiance by which you stand bound to us, that you elect such a person for your Bishop and Pastor as may be devoted to God, and useful and faithful to us and our kingdom.

“In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster on the 11th day of December, in the eleventh year of our reign, by writ of Privy Seal.”

Accompanying this was the following letter missive:—

“To our trusty well-beloved Dean and Chapter of Hereford, in the Diocese of Hereford.

“Trusty and well-beloved, we greet you well.

“Whereas the Bishopric of Hereford is at present void by the translation of the Right Reverend Father in God, Thomas, late Bishop thereof, we let you know that for certain considerations us at this time moving, we of our princely disposition and zeal being desirous to prefer unto the same See a person meet thereunto, and considering the virtue, learning, wisdom, gravity, and other good gifts wherewith our trusty and well-beloved Dr. Renn Dickson Hampden, our Reader of Theology in our University of Oxford, is endued, we have been pleased to name and recommend him unto you by these presents to be elected and chosen unto the said Bishopric of Hereford.

“Wherefore we require you, upon the receipt hereof, to proceed to your election according to the laws and statutes of this our realm and our *congé d'élire* herewith sent unto you, and the same election so made to certify to us, under your common seal.

“Given under our signet, at our Palace of Westminster, the 11th day of December, in the eleventh year of our reign.”

The DEAN said, the names of the members of this Chapter having been called over, I declare that those persons who have not answered to their names are contumacious, and I further declare that the members of the Chapter now present constitute a full Chapter for the purposes of this election. The Dean then read some formal papers declaring the absent members contumacious, and that the Chapter was full and complete for this purpose. He also read a document claiming to be the director and president of the election.

The Rev. Mr. EVANS here applied for a certificate of the receipt, as was understood, of the *congé d'élire*.

The DEAN said, there was no precedent for such an application. If any one could show him such a certificate having been granted on any former occasion, he would make no further objection; but he believed this application to be altogether irregular.

Lord SAYE AND SELE said he apprehended the Chapter had it in their power to create a precedent if they were so minded.

The application here dropped, as it was discovered that it was intended for a certificate, not of the receipt of the *congé d'élire*, but of the election when it took place. Mr. R. Underwood (Chapter-clerk) was then appointed as notary, and Mr. James Knight and Richard Spencer, as witnesses.

The DEAN then said their next duty was to proceed with the election. The *congé d'élire* and the letter missive having been read, it was now for the Chapter to determine what they should do. He need hardly state that the votes would be taken in order, beginning with the junior member present, there being a restriction on the Dean that he should not vote till the last.

Lord SAYE AND SELE.—I have to state, on the best authority, that the Bishop of Oxford has withdrawn the writ from the Court of Arches, which he at one time intended to institute against Dr. Hampden; and I thought it right that the members of the Chapter should be aware of this.

The DEAN.—It would be desirable, if that be so, that we should have some authentic information on the subject. Not that I mean to dispute the statement of Lord Saye and Sele; but in all cases of this kind some authentic information ought to be brought forward. Indeed, as nothing has hitherto been said of this subject, I question the propriety of its being brought forward at all.

The Dean of ST. ASAPH.—We have no evidence either of the suit being instituted or withdrawn.

The election then proceeded, and the first member called upon was the Rev. R. L. Freer, who gave his vote for Dr. Hampden, as did all the other members present until the name of the Rev. Canon Huntingford was called on.

Canon HUNTINGFORD said—With the utmost respect for the royal prerogative, and with a full conviction that it is for the peace and safety of the Church that the Crown alone should nominate to vacant Sees, yet on this particular instance I feel obliged to defer complying with the recommendation which has been sent down to us, until a competent tribunal shall have pronounced to be well founded, or not, the sentiments expressed by so many Bishops of our Church, and by so many members of one of our Universities. And here it is not a favour, but an act of the merest justice to myself, considering how well known I am to most of you, when I ask you to acquit me of any personal disrespect towards a learned and talented divine, towards one whom I am told is so estimable in his disposition, when I ask you to believe that I am not swayed by any of these unimportant (of course I mean, not unimportant in themselves, but still *comparatively* unimportant) motives—namely, a preference for one political party to another, or any feeling, as between Churchman and Dissenter, or, between one party and another, *within* the Church. But while I ask you to believe that I am principally swayed by higher motives, motives which have no connexion whatever with this earth, or with the present life, yet I will frankly confess that my mind is much affected by this circumstance, that among the Bishops of our Church, who have signed a certain remonstrance, there are, in the first

spoke to the following effect.—I am stung  
Myself, and together with our  
of our Lord and Master Jesus Christ, and  
Sovereign of this land to choose and elect  
to be the Bishop and Pastor of this diocese  
the Divine Presence, that it is my earnest  
and bear true allegiance, to pay all humble  
to Her Most Excellent Majesty the Queen  
feel assured on her part, "knowing whose  
things seek His honour and glory who is the  
lords," to whom, above all, I owe my first  
the exercise of that civil privilege which gives  
Crown the power of recommending to the  
vacant bishoprics, the Rev. Renn Dickson  
nominated, and to us recommended by the  
laid before us, to the Bishopric of Hereford  
and Chapter of this Cathedral Church,  
penalties, to elect any other person into the  
Renn Dickson Hampden. And whereas  
full and lawful Convocation, did decree  
Hampden should be deprived of certain  
University, because in his public writings  
subjects, that in this respect the University  
that the convocation afterwards, within  
debate, refused to rescind the said decree  
the said Renn Dickson Hampden is now  
decree of the University of Oxford in con  
the careful and attentive perusal of the sa  
decree to be just, those writings unsound



of every shade of religious opinion tolerated by the Church, have by the most sacred appeals entreated us to refrain from such election, until such time as the aforesaid objections should be removed, or another unobjectionable person substituted:—I, taking all the aforesaid premises into my most serious consideration, do most humbly and imploringly supplicate Him whose holy word declares that the hearts of kings are in his rule and governance, that Her Majesty may even yet be pleased to re-consider our earnest and disinterested prayer, to correct and amend the errors and misfortunes which have arisen, and still more seriously threaten us, from the ill-considered advice of a misinformed minister, as on other occasions Her Majesty's royal predecessors have done, and so may avert the injury which must otherwise be inflicted on the Church, and pacify the outraged feelings of her members. And here, in the sight of God, in the midst of his temple, and in the performance of our priestly office, I solemnly protest that it is no deficiency in the smallest degree of loyalty and humble devotion to our Sovereign, or of implicit respect and deference to the laws of this realm, which impel me to make this declaration. It is the dictate of my conscience, the conviction of my mind, which constrains me thus to act, in arresting the progress of infidelity, mocking of religion, and profaneness. I, therefore, John Merewether, D.D., Dean of the Cathedral Church of Hereford, am dissentient. I cannot vote for Dr. Renn Dickson Hampden as a bishop and pastor of the Cathedral Church where I am Dean. And I further protest—

Here the Dean read the following official protest:—

"I, John Merewether, D.D., Dean of the Cathedral Church of Hereford, do hereby protest against this proceeding as an election, inasmuch as certain persons have voted, who, I have reason to believe, being mere honorary Prebendaries, not having conformed to the provisions of the statutes of this Church, which I have sworn to observe, are not qualified to vote in chapter; and also because the majority so constituted has not, according to the said statutes, the Dean and *three Residentiaries* at the least, voting therein; and I require and claim the power of extending this my protest, and that this my protest be duly annexed and appended to the significations and certificates of election to the Bishop elect, to the Crown, and to the Archbishop.

"JOHN MEREWETHER, Dean."

The Rev. W. E. EVANS here rose, and, addressing the Dean, said, As the senior of the Hon. Prebendaries, I beg to remind you that when we met on a previous occasion you assured us that no dispute would originate with you as to the validity of our votes.

The DEAN.—You are in a mistake.

Mr. EVANS.—I appeal to the other gentlemen present whether it was not so. Three times over I asked you whether any objection to our voting would emanate from you, and you solemnly declared it would not.

Mr. Webb and Mr. Lewis rose together, to confirm this statement—Mr. WEBB stating that, at the previous meeting, he said, if the Dean and Chapter did not sanction the right of the honorary prebendaries to vote, they would withdraw. At that time they were begged not to withdraw, and their right of voting was thus allowed.

Canon MUSGRAVE.—Even if they were disallowed, there is still a majority.

Lord SAYE AND SELE.—By the Act of Parliament a majority of the Chapter is competent to carry any measure, even if the Dean and four canons were not present—a majority of those present are fully competent.

The DEAN.—It is not for the Chapter to determine this point, and I wish only to call attention to what has been stated by Mr. Evans, and here, standing in this place, I feel bound to state that when I called the



Chapter together to consult as to the numerous addresses which now lie on the table, entreating us not to proceed with this election, I did state then that the question might arise with regard to the right to vote of the Honorary Prebendaries; and, on my being asked whether I would object to their right to vote, I said it was not for me to object; that I would admit their votes so far as I was required to do, and they have been accordingly now so admitted; but I never did say anything as if I supposed they had a right to vote, or as to the validity of that right; nor could I with propriety say anything to affect these votes. I have now done what I feel to be my solemn duty in the sight of God, and though there are some here who would wish to throw a slur upon my character and integrity in the course which I have pursued, I can declare that I am free and clear from any just imputation of this kind. I fairly told them in the first instance, that such an objection might be raised, and that I believe it was a valid objection; but I also told them it was not for me to raise it, that I would insert their votes, and that it would be for others, before a proper tribunal, to determine whether they were valid or not. I have now nothing more to say.

CANON MUSGRAVE said,—As I was present on the occasion referred to, I must state, that you said you would raise no objection to these votes. Now this protest, objecting to the votes, emanates from you.

THE DEAN.—I am not aware that I said that.

Several members here rose together to corroborate Canon Musgrave.

THE DEAN then stated that, according to the statutes of the Cathedral Church of Hereford in all matters that were done, nothing could be of force or strength unless the Dean and three Residentiary Canons composed a portion of the majority.

MR. LEWIS.—I beg to state that fourteen days ago I received a letter citing me to this meeting. By whom was that letter signed?

THE DEAN.—It was given under my hand.

MR. LEWIS.—Your hand and seal?

LORD SAYE AND SELE here read the clause in the Act 4th and 5th Victoria, which provides that a majority of members shall constitute a Chapter in every Cathedral Church in the country, including or not including the Dean, as his presence might or might not be required by law.

THE DEAN said it would be improper for him to comment upon that clause, but in his opinion it did not touch the question at all.

CANON MUSGRAVE said that, as the protest of the Dean was likely to go forth to the public, he could not suffer it so to proceed without observing that the Dean had specified the Primate as remonstrating against Dr. Hampden's nomination. Now, he must say that he had no authoritative grounds for including the name of the Archbishop of Canterbury in his protest.

THE DEAN.—I would not have alluded to it if I had not been satisfied from the clearest grounds that my own mind could arrive at, that the Archbishop of Canterbury did write a letter to the prime minister before the remonstrance of the thirteen bishops; and I say in my protest "thirteen or more," because I know that others did write to his Lordship; and it now stands on record that there was a remonstrance on the part of the bishops of England on that appointment against which I now protest.

CANON MUSGRAVE.—But no public notice has been taken of it.

THE DEAN.—I take notice of it, and now I have done my duty.

THE DEAN then stated—It appears by the votes that three Canons

Residentiary have voted for Dr. Hampden, five Prebendaries of the old order have voted for him, nine being absent; six Honorary Prebendaries have voted for him, three being absent; the Dean and three Canons Residentiary are dissentient.

The Dean of ST. ASAPH, in a low tone of voice, gave his opinion that the Honorary Prebendaries had a right to vote, as they had stalls in the Cathedral, although they had no emoluments.

The DEAN.—If this question had not been raised by others, I should have let the matter rest. It was my duty to announce to those gentlemen that the question might be raised—it was not for me to say whether they had a right or not; I believe they had not, but it does not follow from my opinion that it would be so.

Canon MUSGRAVE proposed that the term “Honorary” be withdrawn from these prebendaries.

Lord SAYE AND SELE seconded the motion.

No vote, however, was taken on the question.

Archdeacon WETHERELL said that as the old Prebendaries were suspended, but not extinguished, wherever these Prebendaries were not expressly extinguished, he conceived that their original privileges remained, and that they had a full right to exercise them.

The DEAN.—I must remind the Chapter that we are still engaged in Divine service, and that it is not proper at this time to enter upon secular considerations.

Lord SAYE AND SELE here interrupted the Dean to propose that Mr. Chancellor Corbett should give his opinion upon the point.

The DEAN.—I have a right to speak, and I will say what I have to say. As I was observing, we are still engaged in Divine service, but, as the Act of Parliament has been referred to, I must say that the Act of Victoria gives the Bishop the power of distinguishing deserving clergymen by promoting them to the rank of Honorary Prebendary in every Cathedral Church where there is not already a foundation of non-resident canons.

Lord SAYE AND SELE.—Ah! but that does not apply to us, for we have non-resident canons.

Chancellor CORBETT then stated his opinion, but in so indistinct a tone that scarcely a word could be heard. We understood him to be of opinion that the Honorary Prebendaries had a right to vote.

Lord SAYE AND SELE read from the Act the names of the Cathedrals which, and no other, might have Honorary Prebendaries. Among these the Cathedral of Hereford was not included.

The DEAN.—The fact is that all these prebendal stalls were at one time suppressed by Act of Parliament, and the Bishop could not appoint them till another Act was passed; and until he could, these stalls were called honorary stalls, and the appointments were honorary. No emoluments were attached to them—they were merely distinctions conferred upon the persons who occupied the stalls.

Mr. FREER.—And have they no duties?

The DEAN.—I have already shown that they have.

Canon MORGAN moved that they proceed with the election, and moved that the election be now declared.

Lord SAYE AND SELE seconded the motion.

The DEAN then stated that fifteen having votes, or claiming to vote, had voted for Dr. Hampden; that two had voted against him—the others being absent. It is now for the Chapter to say whether that is an election.

mentioned by his knowledge, life, and morals, being duly  
ordained in priest's orders, and knowing and being able  
the Church, and did on the same day elect the Reverend  
in Divinity, having regard as well to your Majesty's good  
his merits aforesaid, to be Bishop and Pastor of the  
testimony whereof we have caused our common seal  
of December, in the year of our Lord, 1847."

To this was *annexed and appended* the following

"I, John Merewether, Doctor in Divinity, Dean of  
do hereby protest against this proceeding as an election  
voted, who (I have reason to believe, being merely he  
conformed to the provisions of the statutes of this church  
are not qualified to vote in chapter, and also because  
according to the said statutes, the Dean and three Prebends  
and I require and claim the power of extending this  
be duly annexed and appended to the significations  
Bishop elect, to the Crown, and to the Archbishop.

(Signed)

Attested by Richard Underwood,

"J. H. Knight,                     }  
"Richard Spencer,               } Witnesses."

To the Most Reverend Father in God, William, by Divine Providence,  
Canterbury, Primate of all England,

We, your humble and devoted servants, the Dean and Chapter  
of Hereford, humbly signify, with all obedience, reverence  
of Hereford being lately void by the translation of the  
Lord Bishop thereof, to the Archbishopric of York, at  
the Queen, her royal licence to proceed to elect the Reverend  
in Divinity, to the said Bishopric and Episcopal seat  
did on the day of the date hereof, proceed to elect a  
secular, and did elect the said Reuben Dickson Hampden  
deceased, and recommended unto us by his known  
lawful wedlock, of lawful age, ordained in priest's orders,  
defend the rights and liberties of the Church. In testimony  
common seal to be hereunto affixed this 28th day

Doctor in Divinity ( . . . . \*), to be Bishop and Pastor of the aforesaid Cathedral Church of Hereford, humbly requesting you that you will be pleased to signify your assent of your acceptance of the dignity, office, and burden of the bishopric aforesaid.

In testimony whereof, we have caused our common seal to be hereunto affixed this 28th day of December, in the year of our Lord, 1847.

(To this also the aforesaid protest was annexed and appended.)

The Dean suggested that the certificates ought not to set forth that they are issued by the 'Dean and Chapter,' as he was dissentient.

The Rev. Canon Musgrave and the Hon. and Rev. Lord Saye and Sele thought that the words should remain as they were, as the act of the body was the act of the Dean and Chapter.

The Dean said that, of course, he was part of the capitular body—he was content with having mentioned the circumstance, *that it might not be claimed as an act of his individually.*

The capitular body then returned to the choir, where the director proclaimed the election in the following words:—

'Be it known unto all men, that a majority of the members of the Cathedral Church of Hereford, in full chapter this day assembled, have, in obedience to her Majesty's licence, chosen the Rev. Renn Dickson Hampden, D.D., to be the future bishop of this Cathedral Church and See, in the room of the Right Rev. Father in God, Thomas Musgrave, late Lord Bishop thereof, now translated to the Archbishopric of York.'

Signed by three Canons Residentiary, five Prebendaries of the old foundation (nine being absent), six Hon. Prebendaries (three being absent); the Dean and one Canon Residentiary dissentient.

The Dean and Chapter then returned into the choir, when the remaining portion of the daily service was performed. They afterwards went again into the Chapter-house, and affixed their seal to the certificate of the election, when the proceedings terminated.

## CONFIRMATION OF THE ELECTION.

THIS important event took place on Tuesday, January 11. The preliminary proceedings, in Doctors' Commons, were as follows. The Chancellor of the Diocese of London (Dr. Lushington), and the Master of the Faculties (Sir J. Dodson), having entered in procession what is called the Dining Room of the Arches Court, were shortly followed by Dr. Hampden, attended by Mr. Underwood, the Chapter Clerk of Hereford, and Drs. Bayford and Twiss, as his Advocates.

The introduction of his "Lordship-elect" to the court having taken place,

Mr. UNDERWOOD said:—

"May it please your Lordship, I exhibit my proxy for the Rev. the Dean and Chapter of the Cathedral Church of Hereford, and present to your Lordship a certificate of your being elected to be Bishop and Pastor of the said See; and pray and once again earnestly request and entreat that your Lordship will be pleased to give your consent to the said election."

Dr. HAMPDEN then read the following:—

"In the name of God, Amen. I, Renn Dickson Hampden, Doctor in Divinity, regularly and lawfully named and elected Bishop and Pastor of the Cathedral Church of Hereford, agree to accept of such election of myself and my person, as made and celebrated

\* Here a blank was left in place of the word "unanimously," objected to by the Dean as inadmissible.

on the part and behalf of the Rev. the Dean and Chapter of the Cathedral Church of Hereford, earnestly requested and entreated, trusting in the clemency of Almighty God, to accept of such election of myself and my person, so as is premised, made, and celebrated to the honour of Almighty God, Father, Son, and Holy Ghost, and do give my assent and consent in this writing to the said election."

Dr. Hampden then affixed his signature, "*R. D. Hereford (elect)*," to the document.

All the parties then proceeded to Bow Church, Cheapside, in which an immense crowd had assembled, long before the time appointed for the commencement of the service. The galleries, the nave, and the aisles were crammed, with the exception of those pews which were set apart for the use of those immediately concerned in the proceedings of the day. There were present—the Dean of Hereford, the Rev. Dr. Vivian, Rev. Dr. Wright, Rev. Messrs. Hughes, Hessey, E. Hawkins, E. Repton, Bennett, Jackson, Scott, Dodsworth, Webb, Irons, Richards, Wade, C. Miller, Jebb, Eden, M'Leod, Pocock, Bittlestone, Blunt, Wix, Powell, and, indeed, a host of Clergymen. A few minutes before eleven o'clock the alderman of the ward, Mr. Salomans, made his way through the crowd; and took his seat in the corporation pew; and shortly afterwards the Vicar-General of the Archbishop of Canterbury, Dr. Burnaby, came from the vestry in his robes, accompanied by his assessors, Dr. Lushington and Sir J. Dodson, who all three took their seats at a table placed in front of the reading-desk, near to which were seated, in the middle aisle, Mr. F. H. Dyke, principal registrar of the province of Canterbury; the advocates for the Chapter of Hereford, Dr. Bayford and Dr. Twiss; Mr. Glenney, proctor for Dr. Hampden; Mr. John Burder, of Parliament-street, Dr. Hampden's secretary; Dr. Addams, Dr. Harding, and Dr. R. Phillimore, advocates for the opposers; and Messrs. Townsend and Robarts, the proctors who instructed them.

Shortly after eleven o'clock the Venerable Archdeacon Hamilton entered the reading desk, and commenced the Litany service. At its conclusion the Commissioners took their seats as at Doctors' Commons, the Vicar-General (Dr. Burnaby) as President, having Dr. Lushington at his right hand, and Sir John Dodson on the left.

Mr. FRANCIS HART DYKE, Principal Registrar for the province, read the letter from his Grace the Archbishop of Canterbury appointing the commission.

The PROCTOR (Mr. Underwood) then addressed the Commissioners as follows:—

"Right Worshipful Sirs—I exhibit my proxy for the Rev. the Dean and Chapter of the Cathedral Church of Hereford, and make myself a party for them, and do present unto you the letters patent of our Sovereign Lady the Queen, issued under the Great Seal of Great Britain, for the confirmation of the election of the Rev. Renn Dickson Hampden to be Bishop and Pastor of the said Episcopal See of Hereford, and do pray that the same may be read."

Dr. BURNABY—Let the said letters patent be read.

Mr. DYKE then read the following:—

"Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen Defender of the Faith, To the Most Reverend Father in God Our Right Trusty and Right entirely beloved Councillor William, by Divine Providence Archbishop of Canterbury, Primate and Metropolitan of all England, and to all other Bishops herein concerned, greeting; whereas the Episcopal See of Hereford, being lately vacant by the translation of the Right Rev. Father in God, Dr. Thomas Musgrave, late Bishop thereof, to the Archbishopial See of York, upon the humble petition of the Dean and Chapter of our cathedral church of Hereford, we did by our Letters Patent grant them our Leave and Licence to choose to themselves another Bishop and Pastor of the said See, and the said Dean and

Chapter, by virtue of our said Licence and Leave, have chosen for themselves and the said Church, our trusty and well beloved Renn Dickson Hampden, Doctor in Divinity, to be their Bishop and Pastor, as by their letters, sealed with their common seal, directed to us thereupon, does more fully appear. We, accepting of such election, have given our royal assent thereto, and this we signify unto you by these presents, requiring and strictly commanding you, by the faith and allegiance by which you stand bound to us to confirm the said election, and to consecrate the said Renn Dickson Hampden, so as aforesaid chosen, to be Bishop of the said See, and to do, perform, and execute, with diligence, favour, and effect, all the singular other things which belong to your pastoral office, according to the laws and statutes of England, in this behalf made and provided. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, this sixth day of January, in the eleventh year of our reign.

“By writ of Privy Seal,

“LANGDALE.

“BENTHALL.”

The Dean and Chapter of Hereford, previous to the Archbishop receiving the foregoing royal mandate, had certified to Her Majesty the election of Dr. Hampden to the vacant See of Hereford, and at the same time sent a certificate to the Primate, which was to this effect :

“The Dean and Chapter humbly represent to your Grace, that the See of Hereford being vacant by the translation of Dr. Musgrave to the Archbishopric of York, and having received Her Majesty's royal licence to elect Dr. Hampden to the Episcopal See of Hereford, did on the 28th of December last proceed to elect a Bishop to fill such vacant See, and did elect Renn Dickson Hampden, he being a person provident and discreet, and recommended to us for his knowledge, life, and morals, and knowing and being able to defend the rights and liberties of the Church.”

The PROCTOR said—I humbly pray that you will be pleased to take upon you the duty of the said Confirmation, and to decree that it be proceeded in according to the form of the said letters patent, and in the exigency of the law.

The VICAR-GENERAL replied—In obedience to the command of our Sovereign Lady the Queen, we do take upon us the duty of the Confirmation of the said election, and do decree that it be proceeded in according to the force, form, and effect of the said letters patent, in the presence of Francis Hart Dyke, notary public, principal registrar of the province of Canterbury.

The Bishop Elect was here conducted from his pew to the table, and requested to seat himself at the table opposite the Vicar-General.

The PROCTOR then, standing by the side of the Bishop Elect, said—I present unto you the Rev. Renn Dickson Hampden elected Bishop and Pastor of the Episcopal See of Hereford, and do here judicially produce his Lordship; and as Proctor for the said Dean and Chapter, do exhibit an original mandate together with a certificate thereupon endorsed, touching the execution of the said mandate, against all and singular opposers, and do pray they may be publicly called.

The VICAR-GENERAL.—Let the opposers be publicly called.

Mr. BARBER, the Apparitor-General, made the following proclamation :—

“Oyez, oyez, oyez, all ye who may, or shall, or will object to the Consecration of the Rev. Renn Dickson Hampden, Doctor in Divinity, as Lord Bishop of the Episcopal See of Hereford, now come forward and state your objections, and you shall be heard.”

Mr. RICHARD E. TOWNSEND, Proctor, then stepped forward and said—Right Worshipful Sir, I appear for the Rev. Richard Webster Huntley, Clerk, Vicar of Alderbury, in the county of Salop and Diocese of Hereford, Master of Arts of the University of Oxford; the Rev. John Jebb, Clerk, Rector of Peterstow, in the county and diocese of Hereford, Master of Arts of Trinity College, Dublin; and the Rev. William Frederick Powell, Clerk, Perpetual Curate of Cirencester, in the county of



Gloucester, Master of Arts of the University of Cambridge, and exhibit proxies under their hands and seals respectively, and declare I oppose the Confirmation of the election of Doctor Renn Dickson Hampden, Lord-elected of the office of dignity of Bishop of Hereford.

The VICAR-GENERAL,—Have you your objections in writing?

Mr. Townsend having turned to procure his objections,

The VICAR-GENERAL.—I have to state that we are acting here under the mandate of the Crown, issued pursuant to the provisions of the statute of the twenty-fifth of Henry the Eighth, chap. 20, and consequently we conceive that we are bound to proceed without suffering any hindrance or delay.

Mr. TOWNSEND—Right worshipful Sir, I bring in a libel in writing—

Dr. LUSHINGTON.—You have no right to bring in a libel; you are not permitted to appear here; and, Mr. Townsend, you know well that, according to ecclesiastical practice, you can have no right to bring in a libel till you are permitted to appear.

Dr. ADDAMS.—I appear for—

Dr. BAYFORD.—(on the part of the Dean and Chapter)—I object to my learned friend being heard at all. The objections have already been disposed of. My learned friend appears for no one, and, therefore, according to the practice of the Court, he cannot be allowed to proceed.

Dr. BURNABY.—On what do you wish to be heard, Dr. Addams?

Dr. ADDAMS.—On the statute.

Dr. BURNABY.—We confine you to that.

Dr. ADDAMS.—Certainly, I shall not address a word to the Court on any other subject.

Dr. LUSHINGTON.—You must distinctly understand that you are only to argue the question, whether, notwithstanding this statute, you have any right to be heard at all.

Dr. ADDAMS.—I am aware of that, and shall strictly confine myself to that question. I shall now proceed to consider the question; and I undertake to satisfy the Court, unless I am very much mistaken, that, according to the true construction of this statute, it has nothing whatever to do with your proceedings; and certainly I shall be surprised if the ultimate decision of the Court is, that it is incompetent to entertain these objections urged against the said elected Bishop of Hereford, and if the Court decline to entertain these objections by reason of, or on the supposition that by so doing they may fall within the penalties of *præmunire*—

Dr. BAYFORD.—I appear here for the Dean and Chapter, and I must oppose the discussion of this question.

Dr. ADDAMS.—I beg pardon; I am not to be interrupted—I know your pugnacity.

Dr. BAYFORD.—My learned friend stands here for no one. There is no party present, and the Court has already declared that it will hear no one.

Dr. LUSHINGTON.—No, no, Dr. Bayford; we have said nothing of the kind. We have only declared that we will not hear Mr. Townsend; and Dr. Addams is about to speak on the question whether he has a right to be heard or not.

Dr. ADDAMS would take care not to go beyond it. It would be necessary to begin with a brief reference to the history and introduction of this statute. Bishoprics, it was well known, were anciently donative by the prince, by the mere conveyance of the ring and staff. Afterwards the election was by the chapter; and it was supposed to be a free election, and ended upon the *congé d'élire*. But it was agreed that the Confirmation

and Consecration of a Bishop so elected belonged to the Pope, and by that means the Pope had in effect the disposal of all the Bishoprics in England. (See 1 *Inst.*, 134.) But the popes were not content with merely the Confirmation and Consecration, but insisted on various occasions upon collating or nominating to Bishoprics, and that produced the first enactment, 25th Edward III., sec. 6. That statute provided—

“The free election of Archbishops, Bishops, and all other dignities and benefices elective in England shall hold from henceforth in the manner as they were granted by the King’s progenitors and the ancestors of other lords, founders of the said dignities and other benefices. And in case that reservation, collation, or provision, be made by the Court of Rome of any Archbishopric, Bishopric, dignity, or other benefice, in disturbance of the free elections aforesaid, the King shall have for that time the collations to the Archbishoprics and other dignities elective which be of his advowry, such as his progenitors had before that free election was granted; since that the election was first granted by the King’s progenitors upon a certain form and condition as to demand licence of the King to choose, and after the election to have his royal assent, and not in other manner; which conditions not kept, the thing ought by reason to resort to its first nature.”

So the matter stood until the reign of Henry VIII., and then, in the first place, there was a statute against payment of annates to the See of Rome. This statute, twenty-third of Henry VIII., and which was undoubtedly the foundation of the Act, twenty-fifth of Henry VIII., was not printed in the regular statutes, as, indeed, it was hardly a statute, but it was in the Appendix to the first volume of Burnet’s *History of the Reformation*. The preamble ran thus:—

“Forasmuch as it is well perceived, by long approved experience, that great and inestimable sums of money have been daily conveyed out of this realm, to the impoverishment of the same: and specially such sums of money as the Pope’s Holiness, his predecessors, and the Court of Rome, by long time have heretofore taken of all and singular those spiritual persons which have been named, elected, presented, or postulated to be Archbishops or Bishops within this realm of England, under the title of annates, otherwise called first fruits, which annates, or first fruits, have been taken of every Archbishopric, or Bishopric, within this realm, by restraint of the Pope’s bulls, for confirmations, elections, admissions, postulations, provisions, collations, dispositions, institutions, installations, investitures, orders, holy benedictions, palls, or other things requisite and necessary to the attaining of those their promotions, and have been compelled to pay, before they could attain the same, great sums of money. . . . . And for because the said annates have risen, grown and increased, by an uncharitable custom, grounded upon no just or good title, and the payments thereof obtained by restraint of bulls, until the same annates, or first fruits, have been paid, or surety made for the same, which declareth the said payments to be exacted and taken by constraint, against all equity and justice.”

Then followed certain provisions against these annates, and all such payments, and a provision that no person should pay them, and that if any person should be delayed from a Bishopric by restraint of bulls apostolic, he should be consecrated here in England by the Archbishop of the province. This was evidently directed against the usurpations of the Papal See. It was passed at the very commencement of the Reformation, when we were in something of an intermediate state; the Pope was styled in that Act, “His Holiness,” and “our Holy Father;” and the gist of it was, that if the Pope would moderate his demands, and not exact to the extent he had done, the payments to him might continue. In commenting upon that statute Burnet said,—

“In this Parliament the foundation of the breach that afterwards followed with Rome was laid, by an Act for restraining the payment of annates to that Court, which, since it is not printed with the other statutes, shall be found in the end of this volume.”

Clearly at that time the jurisdiction of the Pope in these matters was not altogether denied. Indeed there was a letter immediately following this statute, written in the year after, from Henry VIII. to the Pope, commencing—“After most humble commendations, and most devout



kissing of your blessed feet." But, after this, and notwithstanding this Act, when Cranmer came to be confirmed and consecrated Archbishop of Canterbury, bulls for that proceeding were obtained from Rome: so that was a sort of inchoate measure, and was not carried out. Burnet stated what were the bulls obtained from Rome for the promotion of Cranmer, who had been instrumental in obtaining the opinions of the different Universities against the validity of the King's marriage with Catherine of Arragon, but the sentence annulling it had not been pronounced. Burnet, speaking of the year 1533, said,—

"In the end of January the King sent to the Pope for the bulls for Cranmer's promotion; and, though the statutes were passed against procuring more bulls from Rome, yet the King resolved not to begin the breach till he was forced to it by the Pope. It may be easily imagined that the Pope was not hearty in this promotion, and that he apprehended ill consequences from the advancement of a man who had gone over many Courts of Christendom, disputing against his power of dispensing, and had lived with much familiarity with Oslander and the Lutherans in Germany; yet, on the other hand, he had no mind to precipitate a rupture with England; therefore he consented to it, and the bulls were expedited, though, instead of annates, there was only 900 ducats paid for them. They were the last bulls that were received in England in this King's reign, and therefore I shall give an account of them, as they are set down in the beginning of *Cranmer's Register*. By one bull he is, upon the King's nomination, promoted to be Archbishop of Canterbury, which is directed to the King. By a second directed to himself, he is made Archbishop. By a third he is absolved from all censures. A fourth is to the suffragans. A fifth is to the Dean and Chapter. A sixth to the Clergy of Canterbury. A seventh to all the laity in his See. An eighth to all that hold lands of it, requiring them to receive and acknowledge him as Archbishop. All these bare date the 21st of February, 1533. By a ninth bull, dated the 22nd of February, he was ordained to be consecrated, taking the oath that was in the Pontifical. By a tenth bull, dated the 2nd of March, the pall was sent him. And by an eleventh, of the same date, the Archbishop of York and the Bishop of London were required to put it on him. These were the several artifices to make compositions high, and to enrich the apostolical chamber, for now that about which St. Peter gloried, that he had none of it (neither silver nor gold) was the thing in the world for which his successors were most careful."

Immediately following the consecration of Cranmer there was the sentence of divorce, and, following upon that, was the final breach between Henry VIII. and the Pope, which was declared by a statute prohibiting in future all appeals to Rome under the penalties of *præmunire*. Then followed the statute relating to the matter now in hand,—25 Henry VIII., c. 20. It recited the Act 23 Henry VIII. respecting Annates, and then went on in section 3:—

"Forasmuch as in the said Act it is not plainly and certainly expressed in what manner and fashion Archbishops and Bishops shall be elected, presented, invested, and consecrated within this realm, and in all other the King's dominions, be it now therefore enacted by the King our Sovereign Lord, by the assent of the Lords spiritual and temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, that the said Act, and everything therein contained, shall be and stand in strength, virtue, and effect; except only, that no person or persons hereafter shall be presented, nominated, or commended to the said Bishop of Rome, otherwise called the Pope, or to the See of Rome, to or for the dignity or office of any Archbishop or Bishop within this realm, or in any other of the King's dominions, nor shall send nor procure there for any manner of bulls, breves, palls, or other things requisite for an Archbishop or Bishop, nor shall pay any sums of money for annates, first fruits, nor otherwise, for expedition of any such bulls, breves, or palls."\*

The next section provided, that at every avoidance of a Bishopric the King might grant to the Dean and Chapter a licence to proceed to election with a letter missive containing the name of the person which they should elect and choose; by virtue of which licence they should elect such person and none other; and if they defer or delay their election above twelve days after delivery of the letters missive to them—what then? The penalties of a *præmunire*? No; though they would thus prevent the due execution of the Act, this was the only consequence—that the King

\* Sections 3 to 7 of this Act will be found in pp. 71—73.

should nominate a Bishop. So much for election: now as to the consecration. Sect. 5 went on to provide, in the case of such a nomination by the King, that such person should be invested and consecrated "with pall and all other benedictions, ceremonies, and things requisite for the same, without suing, procuring, or obtaining any bulls, or other things at the See of Rome;" and then it was added, as to the case of election,—

"And if the said Dean and Chapter, or Prior and Convent, after such licence and letters missive to them directed, within the said twelve days, do elect and choose the said person mentioned in the said letters missive, according to the request of the King's highness, his heirs or successors, thereof to be made by the said letters missive in that behalf, then their election shall stand good and effectual to all intents; and that the person so elected, after certification made of the same election, under the common and covent seal of the electors, to the King's highness, his heirs or successors, shall be reputed and taken by the name of Lord elected of the said dignity and office that he shall be elected unto; and then making such oath and fealty only to the King's majesty, his heirs and successors, as shall be appointed for the same, the King's highness, by his letters patent under his great seal, shall signify the said election, if it be to the dignity of a Bishop, to the Archbishop and Metropolitan of the Province where the See of the said Bishopric was void, if the See of the said Archbishop be full and not void; and if it be void, then to any other Archbishop within this realm, or in any other of the King's dominions; requiring and commanding such Archbishop to whom any such signification shall be made to confirm the said election, and to invest and consecrate the said person so elected to the office and dignity that he is elected unto, and to give and use to him all such benedictions, ceremonies, and other things requisite for the same, without any suing, procuring, or obtaining any bulls, letters, or other things from the See of Rome, for the same in any behalf."

The 7th section, [see p. 73] however, proceeded to inflict the pains and penalties of *præmunire*; but for what?

"If the Dean and Chapter proceed not to election" within twenty days after the licence came to their hands. If within twelve days they did not proceed to election, or did not choose the person named by the King, or choose some one else, they acted contrary to the Act, but there was no penalty, and the only consequence was, that the Crown nominated and presented; but, if they did not proceed to an election at all within twenty days, they incurred a *præmunire*. *Præmunire* means a setting up of the Papal, in derogation of the Royal, authority; and if they wilfully refused to elect at all, considering what had been done to the prejudice of the See of Rome as null and void, and preferring obedience to the Pope to their allegiance to their own Sovereign, they incurred the penalties of *præmunire*; but, was the present Court asked to set up the Papal authority in derogation of that of the Queen? The statute then went on to inflict the same penalties of *præmunire*, "If any Archbishop or Bishop within any of the King's dominions, after any such election, nomination, or presentation shall be signified unto them by the King's letters patent, shall refuse, and do not confirm, invest, and consecrate with all due circumstances as is aforesaid," without suing to Rome, "every such person as shall be so elected, and to them signified as is above mentioned, within twenty days next after the King's letters patent of such signification or presentation shall come to their hands; or else, if any of them, or any other person or persons, admit, maintain, allow, obey, do, or execute any censures, excommunications, interdictions, inhibitions, or any other process or act, of what nature, name, or quality soever it be, to the contrary or let of due execution of this act;" or that execution which provided that Bishops should be consecrated without any reference to the See of Rome.

Among other usurpations of patronage by the Court of Rome was that of granting Bishoprics or benefices by anticipation,—by "provision," as it was called,—in the lifetime of the Incumbent; and from that arose the title given to the statute of 27th Edward III., cap. 1, "against provisors;"

and then followed the 16th Richard II., cap. 5, which the Pope called *execrabile statutum*, and the passing thereof *fædum et turpe facinus*, enacting, that

“If any shall purchase or pursue, or cause to be purchased or pursued, in the Court of Rome or elsewhere, any translations of Prelates, processes, sentences of excommunication, bulls, instruments, or any other things whatsoever which touch the King, against him, his Crown, and his regality, or his realm; and they which bring within the realm, or them receive, or make thereof notification, or any other execution whatsoever within the said realm or without, they, their notaries, procurators, maintainers, abettors, fautors, and counsellors, shall be put out of the King’s protection, and their lands and goods forfeited to the King, and they shall be attached by their bodies, if they may be found, and brought before the King and his Council, there to answer to the cases aforesaid, or process shall be made against them by *præmunire facias*, in manner as it is contained in other statutes of provisors; and other which do sue in any other court in derogation of the regality of our Lord the King.”

Persons who offended against these statutes were summoned to answer by a writ which commenced with the words “*præmunire facias*,” (*præmunire* being supposed to be a barbarous word for *præmoneri*,) and the offence itself for which they were called to answer then came to be called by the name of the first words of the writ; but the offence of *præmunire* was the maintaining of Papal usurpations in derogation of the authority of the Crown; nor could the penalties of that offence be incurred by any other than such an act, except only where those penalties were inflicted expressly by statute for other offences, as in the case of assisting in an illegal marriage of any of the Royal Family.

So much, then, upon the statute itself; now what had been the interpretation put upon it? The precedents were all one way. There were none in the reign of Edward VI., because an Act was passed in the first year of his reign by which all those processes were abolished, and Bishoprics were made donative by letters patent. In the reign of Mary the realm was reconciled to the Pope; but there was a passage in Burnet relating to that period:—

“On the 22nd of March, the very day after Cranmer was burnt, Pole was consecrated Archbishop of Canterbury by the Archbishop of York, the Bishops of London, Ely, Worcester, Lincoln, Rochester, and St. Asaph. He had come over only a Cardinal Deacon, and was last winter made a Priest, and now a Bishop. It seems he had his *congé d’élire* with his election, and his bulls from Rome already despatched before this time. The Pope did not know with what face to refuse them, being pressed by the Queen on his account, though he wanted only a colour to wreak his revenge on him, to which he gave vent upon the first opportunity that offered itself. It seems Pole thought it indecent to be consecrated as long as Cranmer lived; yet his choosing the next day for it brought him under the suspicion of having procured his death, so that the words of Elijah to Ahab, concerning Naboth, were applied to him—‘Thou hast killed and taken possession.’”

In the reign of Elizabeth the realm again became Protestant; and Parker was her first Archbishop. Burnet, after stating Parker’s reluctance, said,—

“In the end he was with great difficulty brought to accept of it. So on the 8th day of July the *congé d’élire* was sent to Canterbury; and upon that, on the 22nd of July, a Chapter was summoned, to meet the 1st of August, where the Dean and Prebendaries meeting, they, according to a method often used in their elections, did by a compromise refer it to the Dean to name whom he pleased, and he naming Dr. Parker, according to the Queen’s letter, they all confirmed it, and published their election, singing *Te Deum* upon it. On the 9th of September the great seal was put to a warrant for his Consecration, directed to the Bishops of Duresme, Bath and Wells, Peterborough, Llandaff, and to Barlow and Scory (styled only Bishops, not being then elected to any Sees), requiring them to consecrate him. From this it appears that neither Tostat, Bourn, nor Pole, were at that time turned out. It seems there was some hope of gaining them to obey the laws, and to continue in their Sees. This matter was delayed to the 6th of December. Whether this flowed from Parker’s unwillingness to engage in so high a station, or from any other secret reason, I do not know. But then the three Bishops last named refusing to do

new warrant passed under the great seal to the Bishop of Llandaff, Barlow, Bishop elect of Chichester; Scory, Bishop elect of Hereford; Coverdale, late Bishop of Exeter; Hodgkins, Bishop Suffragan of Bedford; John, Suffragan of Thetford; and Bale, Bishop of Ossory; that they, or any four of them, should consecrate him. So by virtue of this, on the 9th of December, Barlow, Scory, Coverdale, and Hodgkins, met at the Church of St. Mary-le-Bow; where, according to the custom, the *congé d'élire*, with the election, and the Royal assent to it, were to be brought before them; and these being read, witnesses were to be cited to prove the election lawfully made; and all who would object to it were also cited. All these things being performed, according to law, and none coming to object against the election, they confirmed it according to the usual manner."

So that a practice had grown up then, as now; and who could suppose that opposers were cited, if they were not to be heard? Further, on this point of precedents, Burn set forth that opposers were to be summoned, adding,—

"But if any appear, it seemeth that they shall be admitted to make their exceptions in due form of law."

And then he cited a case, not occurring in the time of the Commonwealth, but early in the reign of Charles I., in the palmy days of the Church—the case of Dr. Mountague, Bishop of Chichester,\* whose Confirmation was objected to by a person who had no particular interest, and whose exceptions were rejected because they were not offered in form of law, and particularly were neither given in writing, nor signed by an advocate, nor presented by any Proctor of the Court. Burnet added—

"The Parliament, not at first apprised in point of form, were dissatisfied with the conduct of the Vicar-General, and inquired into the behaviour of Dr. Rives on that occasion. Upon which it hath been observed, that Dr. Rives, a most eminent civilian and canonist, admitted that the opposition was good and valid, had it been legally offered; and that the Parliament of that time proceeded upon the same opinion."

Dr. Rives did not conceive that he should have incurred the penalties of *præmunire* by receiving the exceptions if they had been taken in due form. Neither would this Court incur those penalties by hearing the exceptions, if they should prove to be taken in due form; but with regard to the character of the exceptions, it was at present not the time to speak.

Dr. HARDING next addressed the Court, and said he would confine himself entirely to the point whether the Court had a right to listen to objections or not. He understood that the difficulty felt by their worships was, that by the permitting any one to oppose the Confirmation they were incurring the penalties of the 25th Henry VIII.

Dr. LUSHINGTON.—We never said a word upon the subject.

Dr. HARDING understood that was the nature of their objection; but now the answer he would give would be independently of the statute to which he had referred. All persons who had objections to make to the Confirmation were called upon to appear, or be pronounced contumacious. He appeared for three Clergymen, who were about to be pronounced contumacious, in order that he might save their contumacy. Their worships were sitting in that consecrated place as in a Court, and having called upon all persons to appear in that Court, surely, *primâ facie*, any one appearing according to the forms of that Court, by a Proctor, before the immediate representatives of his Grace the Primate and the Metropolitan of all England, and proceeding according to the ecclesiastical practice, could not be refused an opportunity of being heard. Their worships would be violating every principle of ecclesiastical law and justice to deny to any person so cited the right to appear. It would appear, from what had fallen from one of their worships, that, after all, they were fighting with a shadow in attempting to grapple with the statute of Henry VIII. For

\* Quoted by Sir Fitzroy Kelly in page 56.

their worships had not yet stated that they considered themselves bound or precluded by that statute; though, if it was not by that statute, then upon what grounds did their worships suppose themselves called upon in that consecrated place to perform an act of such mockery as to call upon all persons to appear, and then to question and deny the right of those who did appear, and that according to the most solemn forms of law in an Ecclesiastical Court?

He thought it would be indecorous, and altogether unnecessary to occupy further time on this point, especially as he had the honour of addressing three of the most experienced persons in the kingdom, and who were habituated to the daily practice of the ecclesiastical law. He should, however, presume to speculate that what he had to deal with was the statute of Henry VIII., and while on that point he should avoid, as far as he could, touching upon any of the grounds so ably gone through by the learned gentleman who had previously addressed them. He had shown conclusively and unanswerably that it was never suggested till this morning that it afforded any impediment to the Confirmation of Bishops-elect in England. On the contrary, he had shown that these objections were entertained—once only, he admitted—and then dismissed from want of form. Such objection was entertained before as eminent a civilian as any of their worships. Before referring to the 25th of Henry VIII., he (Dr. Harding) should require their worships' attention. It was a known principle of English law that a penal statute should be construed most strictly, and if there were upon the statute-book one that might be called a highly penal statute, it was this. Their worships were aware that by the 1st of Mary, all Acts passed by Henry VIII., involving the penalty of *præmunire*, were repealed. It begins thus:—

“Forasmuch as the state of every king, ruler, or governor of any realm, dominion, or commonalty, standeth and consisteth more assured by the love and favour of the subject toward their sovereign ruler and governor than in the dread and fear of laws made with rigorous pains and extreme punishment for not obeying of their sovereign ruler and governor; and laws also justly made for the preservation of the Commonweal, without extreme punishment or great penalty, are more often for the most part obeyed and kept than laws and statutes made with great and extreme punishments.”

The fact of Mary repealing it was sufficient to show the sense in which the Act was understood at that time. The statute of *præmunire* had been since re-enacted; but he had referred to its repeal in the time of Mary in order to show how the legislature at that period characterized such a penal statute. Coke said (3rd Institute, p. 330) that every statute ought to be explained according to the intent of them that made it. The next principle to which he (Dr. Harding) would direct attention, was one equally clear, namely, that the words of the statute were to be taken in their lawful and rightful sense. That principle was found in Coke, 1 Institute, p. 381, P. He said the words of every Act must be taken in a lawful and rightful sense; as, here the words being “Whereof no fine is levied in the King's Court” are to be understood “Whereof no fine is *rightly or lawfully* levied in the King's Court.” The 4th section of the 25th of Henry VIII., required the Dean and Chapter to elect a bishop “with all speed, celerity, and due form;” and the fifth section required the Archbishop or Bishops to confirm such election, and invest and consecrate the person so elected.

Now before it could be suggested that there should be any reason for imagining that the penalties of *præmunire* should attach to any person for doing what their worships were called upon to do, the statute ought to be interpreted in such a way as to give regular effect to the words “in



form elected." The Confirmation of a person so elected means a person "in due form elected." Now, if it turned out that a person was not "in due form elected," surely that alone would be an answer to the statute of Henry VIII. But how was it possible for their worships to tell the nature of the objections that were about to be made? Did they suppose themselves called upon absolutely to refuse to hear a party objecting, even if it should turn out that Dr. Hampden had not been elected at all by the Dean and Chapter—that he had not been "in due form elected;" and therefore that he had only the shadow of an election. Suppose he had been elected by certain parties having no right or title to elect him, and supposing the election, being vested by law in the Dean and Chapter, was made by the Master and the Fellows of a College, or the electors of the county, surely it would not be such an election as the Act contemplated. But it was quite impossible that their worships could know what objections there were about to be made. As to the ability of the person, he (Dr. Harding) was well aware that it was premature to refer to that point; but it was not a violent presumption that a person elected, even "in due form," should be under legal disability. Suppose him, for instance, to be one of those persons alluded to in the Book of Common Prayer—a Jew, Turk, Infidel, or Heretic, or one of the Queen's enemies, convicted of treason or of felony, was it to be supposed that, by their worships not confirming his election, they would be incurring the penalties of the statute of Henry VIII.?

A case had been unanimously decided. A case had, after much argument and two days' deliberation, been unanimously decided in the Court of Queen's Bench, which case showed the sense in which the statute of Henry VIII. was understood. It was the case of *Evans v. Ascuthe*, reported in Jones, p. 158, in 3 Car. 1, and also, but not fully, in Latch. The question was the validity of a lease. [The learned gentleman then read some extracts from the report, which was in Norman French, and portions of it admitted to be of equivocal construction. It appeared, however, that the process of making a Bishop was involved in the argument, and it was laid down that at the Confirmation the validity of the election, and the ability of the party elected, were questions that should be entertained upon such an occasion.] This admission was made in the third year of the reign of King Charles I., when persons were living who might remember the later stages of the Reformation. Here they were sitting as a Court, and allowing Proctors for the Bishop-elect to plead and give evidence, and asking for a solemn sentence in writing, pronouncing all parties who did not appear contumacious, and, at the same time, from some overwhelming reason, they conceived it to be their duty to prevent any party from being heard. Just consider the monstrous consequences of such a proceeding. Look at the absurdity and mockery of the thing they were called upon to do. They were converting a solemn proceeding in a Court into little more than a mockery. He imputed no disrespect to the tribunal he was addressing—he knew nothing could be further from their intention than to do anything of that kind. They, under the idea of some overwhelming necessity, were acting thus in derogation of the common law, as well as of right and reason, and of every practice of the Ecclesiastical Court. They pronounced the opposers who did not appear contumacious, and at the same time they prevented the parties appearing from being heard. Was this extraordinary course of conduct to be forced on their worships by the statute of Henry VIII.? Nothing could be more clear than this, that the general purview, purpose

and intent of that statute was to oppose the usurpations of the Court of Rome. He would conclude by imploring of their worships not to give the Act an interpretation which was never in the mind of the makers of it, and to which even the words of the statute were not apt, and which they did not cover. He trusted, therefore, that the parties for whom he appeared would be heard in the Ecclesiastical Court to which they were cited.

Dr. R. PHILLIMORE, on the same side, would merely quote a passage from Fuller's Church History, book xi. cent. xvii., to show that in Mountague's case the only reason why the exceptions were rejected was their informality:—

“ There is a solemnity performed before the consecration of every Bishop, in this manner:—The Royal assent being passed on his election, the Archbishop's Vicar-General proceeds to his Confirmation, commonly kept in Bow Church. A process is issued forth to call all persons to appear, to show cause why the elect there present should not be confirmed. For, seeing a Bishop is in a manner married to his See (save that hereafter he taketh his surname from his wife, and not she from him), this ceremony is a kind of asking the bans, to see if any can allege any lawful cause to forbid them. Now, at the confirmation of Mr. Mountague, when liberty was given to any objectors against him, one Mr. Humphreys, since a Parliament Colonel, lately deceased, and William Jones, a stationer of London, who alone is mentioned in the record, excepted against Mr. Mountague, as unfitting for the Episcopal office, chiefly on this account,—because lately censured by Parliament for his book, and rendered incapable of all preferment in the Church. But exception was taken at Jones's exceptions, which the record calls *prætensos articulos*, as defective in some legal formalities. I have been informed, it was alleged against him for bringing in his objections *riâ voce*, and not by a Proctor (that Court adjudging all private persons effectually dumb who speak not by one admitted to plead therein); Jones returned that he could not get any Proctor, though pressing them importunately, and proffering them their fee, to present his exceptions, and therefore was necessitated *ore tenus* there to allege them against Mr. Mountague. The register mentioneth no particular defects in his exceptions; \* but Dr. Rives, substitute at that time for the Vicar-General, declined to take any notice of them, and concludeth Jones amongst the contumacious, ‘*quòd nullo modo legitime comparuit, nec aliquid in hac parte juxta juris exigentiam diceret, exciperet, vel opponeret*;’—‘because he by no means lawfully appeared, nor said, excepted, or opposed, anything in this part, according to the exigency of the law.’ ”

Dr. BAYFORD then rose on behalf of the Chapter, but was stopped by the Court.

The VICAR-GENERAL.—Notwithstanding the very able arguments which we have heard, I am clearly of opinion that we are bound, under the provisions of the statute of Henry VIII., to proceed to the Confirmation of the Bishop. That statute appears to me to have extended beyond the cases embraced in the previous Act, and I consider that we should incur the penalties if we did not proceed to confirm this election. [So we understood the learned judge, but his first two sentences were nearly inaudible, owing to the pressure of the crowd to hear the judgment.] I may observe, that the Act itself prescribes no mode of proceeding in the performance of the duty enjoined, nor refers to any; the office whence these proceedings issue supplies none beyond the form now in use, and which has prevailed and been acted upon for a period of above three hundred years. The citation and præconization may seem to imply the existence of others in the call made by them upon opposers to appear and make their objections if they have any; but how these objections are to be received, in what form to be made, how to be proved or sustained, and with what result, is nowhere, that I can find, laid down with reference to the ceremony of Confirmation by any book of authority, or writer on the law, or the practice thereof, as prevailing and established in this country. Whether in the cases of other countries any such forms of procedure are to be found grounded upon the authority of the

\* “*Registrum Cantuar.*” fol. 140, in anno 1628.

canon law, or the decrees of councils, I am unable to say. In the present case we are bound by the statute law of the realm, which affords us no alternative but that of confirming the election which is certified to have been made by the Dean and Chapter of Hereford, or subject ourselves to the pains and penalties of *præmunire*.

Dr. LUSHINGTON.—The question now to be decided is, in the first instance, whether the parties who have attempted to appear are entitled to appear and to be heard before the commissioners of his Grace the Archbishop of Canterbury. Now, if they were entitled to appear before this Court, it would almost of necessity follow that they would be entitled to be heard, and that their objections must be discussed and disposed of by the authority of the same tribunal. But that this Court could have power to examine into any case which can be described in words, regarding the life, conduct, or proceedings of a person chosen to be a Bishop of this realm, since the passing of the Clergy Discipline Act, I entertain the greatest and most serious doubts. I apprehend that it would be impossible for us under any circumstances to enter into the consideration of any one fact or circumstance comprised within that statute. But it is not necessary to follow up this consideration; for it is our duty to look in the first instance to the statute law of the land for the regulation of our conduct upon the present occasion. Now, the statute which has been so often referred to, and read in great part by Dr. Addams, is a statute truly described to have been passed at the commencement of the Reformation; a statute memorable, no doubt, for all its provisions, and not the less so because it restored to the Crown of Great Britain its undoubted right, and put to sleep for ever the pretensions of the Bishop of Rome; a statute to be held therefore in reverence, and to be carried into execution to the full extent of its spirit and its letter. Now, what are the words of that statute? The words of the statute admit, in the first place, of no doubt whatever. After having recited that in the Act of 23rd of Henry VIII., “it was not plainly and certainly expressed in what manner and fashion Archbishops and bishops should be elected, presented, invested, and consecrated,” it goes on to enact in express terms, first that the said Act, and everything therein contained, that is, relating to the payment of annates, shall be and stand in strength, virtue, and effect, excepting only that no person shall be presented to the See of Rome; and after having confirmed the former Act, therefore, in every respect but one, it prescribes minutely in the 4th, 5th, and 6th sections the form of proceeding. Now, the form of proceeding is this:—the Crown issues a *congé d’élire* to those who have right to elect Bishops, and, at the same time, a letter missive containing the name of the person to be elected. We need not enter into a discussion of the question, what would be the state of the case supposing there had been no election at all, because there is presented to us the record of an election under the corporate seal of the Dean and Chapter of Hereford, and beyond that corporate seal we cannot go. The statute then directs the Consecration; it requires and commands the Archbishop, to whom a signification shall be made, “to confirm the said election, and to invest and consecrate the person so elected to the office and dignity that he is elected unto.”

Now, if this were the only passage in the statute, it is directory to the Archbishop, whose Commissioners we are, to proceed to the Confirmation of the person so chosen. I think that this is not a place nor an occasion in which it would be becoming in us to enter into long and minute examination of the arguments, or of the cases which have been cited. Nor is it in the slightest degree necessary that we should hold that the penalty of



*præmunire* would attach. It may be so; perhaps the better opinion is that it would; but if we are ordered to proceed to Confirmation, and there is nothing in this statute which gives us a discretion in exercising the power so confided to us, then, I apprehend, it becomes our bounden duty to proceed accordingly.

I will advert briefly—it shall be very briefly—to what are called precedents, upon this occasion. It appears, that, from the passing of this statute of Henry VIII. up to the present time, there have been two instances—and two instances only—which are said to savour of precedents. Really, with respect to the case of Archbishop Parker, I am unable to collect from the statement of Dr. Addams that that throws any light upon the construction of this statute; and I must say that it is impossible to take the construction of a statute from a book like that of Bishop Burnet on the Reformation; the observations of persons not lawyers themselves would not enable us to form a just and legal conclusion. With regard to the case of Bishop Mountague, I must express my opinion very confidently that that was a case in the worst possible times. At what period was it? At a period when the Parliament were usurping the rights of the Crown, and the Crown trenching upon the privileges of the Parliament. It appears quite evident that this precedent occurred—if precedent it be termed—in times when no reliance could be placed upon the decision of any court whatsoever. For what right had the House of Commons to interfere with regard to the question whether Dr. Rives had or had not done his duty upon that occasion? Is it not perfectly evident that Dr. Rives, acting as he did on that occasion, might—I will not say that he was, but might have been actuated by a fear of encountering the wrath of the House of Commons of those days, and so put this construction upon the proceedings, that the articles had not been signed properly? But am I come to the conclusion that because he rejected them for want of form, therefore he would have received them if they had been in form, in the teeth of this statute, without finding it recorded in any book whatever that any such expression ever came from the mouth of Dr. Rives?—for, it is a mere inuendo, which some persons have thought fit to affix upon his conduct. There are other points with regard to the form of proceeding, and the alleged inconsistency. Why, no doubt there may be inconsistency in these modes of proceeding; indeed I think it would be vain to deny that such is the case. But really what are the facts? The times when this statute was passed were times when we were emerging from the power of the Papacy into the freedom of the Reformation, and when the practice, and I am sorry to say the principles, too, vacillated; and is there any wonder that a Sovereign upon this throne in those times was anxious to retain the ancient form, though at the same time anxious to engross into his own hands the real power? I shall follow this up no further than by expressing my conviction, as one of the Commissioners, without saying that any one would incur the penalty of *præmunire*, that I conceive it my duty to refuse to allow the opposition which is now offered, and to proceed to the confirmation of Dr. Hampden.

Sir JOHN DODSON entirely concurred with what had been stated by his brother Commissioners.

Dr. BURNABY having directed the Confirmation to be proceeded with in the usual way.

The PROCTOR said—I accuse the contumacy of all and singular persons cited, intimated, publicly called, and not appearing, and on pain of such their contumacy pray that they and every of them be precluded from the use of further opposing against the said election, the manner thereof

the person elected in this behalf; and also that it may be decreed to be proceeded to further acts in this business of Confirmation, the absence or contumacy of the persons so cited, intimated, publicly called, and not appearing in anywise notwithstanding, and I porrect a schedule which I pray to be read.

Dr. BURNABY having read the schedule and signed it,

The PROCTOR proceeded—In pain of the contumacy of all and singular persons cited, intimated, publicly called, and not appearing, I give this summary petition in writing, which I pray to be admitted; and that it be decreed to be proceeded summarily and plainly, and that a term be assigned me to prove the same immediately.

Dr. BURNABY replied—We do admit this, your summary petition, so far as the same may by law be admitted, and do decree that it may be proceeded summarily and plainly, and we do assign you a term to prove this your summary petition immediately.

The PROCTOR then said—In pain of the contumacy of all and singular persons cited, intimated, publicly called, and not appearing, and in support of proof of the matters contained in my said summary petition, I exhibit a certificate touching and concerning the election of the aforesaid Rev. Renn Dickson Hampden, Doctor in Divinity, to the said election, and Her Majesty's letters patent before read, and I allege that all and singular the matters set forth in these said exhibits respectively were and are true, and so had done as therein contained, and I pray all of them to be admitted, and that a term be assigned me to hear sentence instantly.

Dr. BURNABY.—In pain of the contumacy of all and singular the persons so as aforesaid cited, intimated, publicly called and not appearing, we do admit these public instruments, and do assign to hear sentence instantly.

The PROCTOR.—I pray all and singular the said opposers do be again publicly called.

Dr. BURNABY.—Let the opposers be again publicly called.

The APPARITOR-GENERAL then made his proclamation as follows:—

“Oyez, Oyez, Oyez, all ye who shall, or may, or will object to the Consecration of the Rev. Renn Dickson Hampden, as Lord Bishop of the Episcopal See of the Cathedral Church of Hereford, *now come forward and state your objections and you shall be heard.*”

These words were received with shouts of “Mockery, mockery.”

The PROCTOR then said—I accuse the contumacy of all and singular the persons so as aforesaid cited, intimated, publicly called, and not appearing, and I pray them to be pronounced contumacious, and in pain of such their contumacy, that it be decreed to be proceeded to the pronouncing your definitive sentence, and I porrect a schedule, which I pray to be read.

Dr. BURNABY then read the second schedule, and signed it.

The PROCTOR.—The Lord Bishop-elect is ready to take the oaths required in this behalf.

Dr. BURNABY.—Let the oaths be taken.

The Lord BISHOP-ELECT, kneeling, then took the oaths of allegiance, supremacy, simony, and obedience.

On the prayer of the Proctor, the following sentence in writing, to which Dr. Burnaby, as the Vicar-General affixed his signature, was read and given:

“In the name of God, Amen. We, Sherrard Beaumont Burnaby, Doctor of Laws, Vicar-General and official Principal, lawfully constituted of the most Reverend Father in God, William, by Divine Providence, Lord Archbishop of Canterbury, Primate of all England and Metropolitan, being hereunto sufficiently and lawfully authorized, and having heard, seen, understood, and discussed the merits and circumstances of a certain business of Confirmation

Dickson Hampden, D.D., to the Bishopric of Hereford, and by law we may, supply all defects in the said Bishopric. And we do commit unto the said Bishop, elected and appointed, the administration of the spirituals of the said Bishopric, decrees, and order, by this our definitive sentence, in these presents, that the said Bishop so elected for him, shall be inducted into the real, actual, and full possession of all its rights, dignities, honours, privilege, and authority, installed and enthroned by the Archdeacon of Canterbury in a laudable and approved manner and custom of the said Bishopric, contrary to the laws and statutes of this realm."

The PROCTOR then said—The Lord Chancellor, pray a public instrument and let it be entered in the records and concerning the premises.

The VICAR-GENERAL —We do decree

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MOTION FOR  
COURT OF QUEEN'S BENCH,  
(Sittings in Banco before Lord Chief Justice,  
COLERIDGE and ERLE)

REGINA V. THE ARCHBISHOP

Sir FITZROY KELLY moved for "a writ of habeas corpus" should not issue, directed to the Lord William, Lord Archbishop of Canterbury, Metropolitan, and to his Vicar-General

The learned counsel said, that his application involved a question of the highest importance, which had been raised, and which deserved to be very deliberately considered and determined by that Court. On the election of a bishop by the dean and chapter, and the return of that election to the archbishop and to the sovereign, the sovereign issued letters patent under the great seal, addressed to the archbishop of the province, directing him to proceed to the confirmation of the person so elected ; and by the course of practice for many centuries, upon the receipt of those letters patent, the archbishop proceeded to hold the court at which the business of confirmation was proceeded with. At some reasonable time before the court for the confirmation was held, a citation was published, calling upon all persons who objected, to come in and oppose the confirmation of the bishop. If the names of the opposers were known, the particular individuals were to be cited by name ; but if not, all opposers were, by a general citation, called upon to appear and oppose the confirmation. At the court so held, the bishop elect had to propound, by way of petition, the fact of his election, the *cong  d' lire*, &c., and he was to state and prove his fitness for the office to which he had been elected, by reason of his doctrine, learning and piety. It was then the duty of the archbishop, or his vicar-general, to make proclamation to all opposers to come in and oppose the matter of that petition or the confirmation. If no one came in, and the archbishop, or his vicar-general, was satisfied that the matter of that petition was true, viz., that the election had been duly certified to the crown ; that the crown had issued letters patent to the archbishop to proceed to the confirmation ; and that the bishop elect was, in all respects—by learning, doctrine, piety, &c.—duly qualified to be confirmed a bishop of the Church of England, &c. ; then, after certain other proceedings, a solemn decree of confirmation was pronounced by the archbishop, or his vicar-general. Afterwards, a mandate was issued to the archbishop for the installation and enthronement and final consecration of the bishop. That being the general order of proceeding, the question was, whether the practice which had prevailed under the canon law for centuries, and had become for that purpose part of the common law of the realm—viz., that of citing all opposers, and, if opposers appear, of hearing and deciding on their objections to the bishop elect—whether that was a mere form, or something worse than a useless form, a mockery and delusion ? The question was, whether, when the clergy of the diocese, who were so deeply interested in the character of their bishop, came forward to oppose the confirmation, they were to be told that there was something in the statute of Henry VIII. which prevented their being heard ?—whether, although those forms were still to be gone through, the Court was compelled to reject all opposition, to deny a hearing to all opposers, and to proceed at once to confirm the individual so presented ? He (the learned counsel) would first call the attention of the Court to what had been done upon the occasion of the confirmation in question ; he would then refer to the forms pointed out by books of authority ; and then he would refer to the statute of Henry VIII. It would then be seen that those authorities were uniform, that those forms must be observed, and that if there was any failure in any part, the confirmation of the bishop was void in point of law. The learned counsel then read from affidavits upon which he moved, the fact of the *cong  d' lire*, &c., and the election of Dr. Hampden by the Dean and Chapter of Hereford, the certificate thereof to the crown, and the issue of her Majesty's letters patent to the Archbishop of Canterbury, to proceed to the confirmation. The

confirmation had been appointed to take place at Bow Church on the 11th inst., and a citation had been duly published, calling upon all opposers to come in and oppose the confirmation. Opposers could only appear by proxy, and certain parties who were clergymen in the diocese of Hereford, having determined to oppose the confirmation of Dr. Hampden, had appointed Messrs. Townsend and Robarts as their proctors, to appear on their part and to oppose.

The learned counsel then stated the proceedings on the confirmation. After Dr. Hampden had been presented to the vicar-general, the apparitor-general was commanded by the vicar-general to make proclamation, which was made as follows:—

“Oyez, Oyez, Oyez, all manner of persons who shall or will object to the confirmation of the Reverend R. D. Hampden, D.D., to be bishop and pastor of the cathedral church of Hereford, let them come forward and make their objections in due form of law, and they shall be heard.”

Those words were the same as those which had been adopted for many centuries, certainly since the revival of the statute of Henry VIII. in the reign of Elizabeth. Thereupon Mr. Townsend, the proctor, came forward, and exhibited proxies under the hands and seals of three clergymen in the diocese of Hereford, and stated that he appeared for them to oppose the confirmation of the bishop elect. On being asked by the vicar-general whether he had got his objections in writing, Mr. Townsend proposed to hand in a libel, which, however, was refused. The vicar-general would not allow Mr. Townsend to appear, or to be heard; and the Court refused to hear any argument, except on the preliminary question, whether the opposers were entitled to appear and to be heard. Dr. Addams and Dr. Harding were then heard, and argued that question on the part of the opposers, both on the statute law and on the canon law; and the court, without hearing any one on the other side, determined that they were bound by the statute of Henry VIII. to reject all opposition, to deny all parties the right to be heard, and simply to obey the mandate of the crown, and to confirm the bishop. The court then proceeded to pronounce sentence of confirmation accordingly.

The learned counsel then proceeded to contend that, under the statute of Henry VIII., and by the canon law and common law of the realm, the confirmation of a bishop was a regular judicial proceeding, and that it was a necessary part of that proceeding that the archbishop or his vicar-general should proceed to inquire into the fitness of the bishop elect. He was bound to enter into evidence upon that subject, and to hear all persons who came forward to make opposition, provided they came forward in due form of law. If he refused to do so, he exceeded his jurisdiction, he denied justice, and his proceedings were null and void. In the first volume of *Burn's Ecclesiastical Law* (p. 205) would be found the whole law upon the subject, which was founded upon the statute of Henry VIII., the canon law, and common law. The learned counsel then read the following passages from *Burn's Ecclesiastical Law*:—

“The method and order of confirmation will be best understood by a brief account of the several instruments exhibited and applied in the course of it.

“(1.) The king's letters patent; by which the royal assent to the election is signified, and the archbishop required to proceed to confirmation.”

The Court would observe that her Majesty's letters patent were not a mere order or direction to confirm. If they were, the question would still remain, what is the meaning of the word “confirmation?” But the archbishop was therein commanded to do, perform and execute with diligence, favour and effect, all and singular other things which belong

his pastoral office, according to the laws and statutes of England, in that behalf made and provided. Of what, then, did the business of confirmation consist ?

“(2.) A citation against opposers ; which (the time of confirmation being first fixed) is published and set up, by order and in the name of the archbishop, at the church where it is to be held, as well to notify the day of confirmation as to cite all opposers (if any there be) who will object against the said election, or the person elected, to appear on that day, according to the direction of the ancient canon law.”

Burn, who was writing since the statute of Henry VIII., mentioned the public citation as a necessary part of the ceremony of confirmation. He (the learned counsel) had not the exact form of the citation, but the substance of it was to be found in a note in *Gibson's Codex*, vol. i., p. 110, (which the learned counsel read.)\* The learned counsel then continued the passage from *Burn's Ecclesiastical Law* :—

“(3.) The certificate or return made by proper officer to the archbishop of the due execution of the said citation.

“(4.) The commission to confirm ; which is usually performed by the archbishop's vicar-general.

“(5.) The proxy of the dean and chapter ; by which one or more persons are delegated by the dean and chapter electing, not only to present in their names the instrument of election to the bishop elected to obtain his consent, and to present the letters certificatory of election to the king, and to pray the royal assent, in order to confirmation ; but also at the time of confirmation (the said letters patents and commission to exhibit such his proxy being first read,) in virtue thereof, to present the bishop elected to the archbishop, vicar-general, or surrogate ; and in the course of the confirmation to do whatever else is necessary to be done on the part of the dean and chapter.

“(6.) The first schedule ; The said proctor, in the name of the dean and chapter, exhibiting the citation and return above mentioned, prays that the opposers (if any be) not appearing, may be pronounced contumacious, and precluded from further opposition, and that the confirmation may be proceeded in ; which is accordingly done by this schedule.”

The Court was to be prayed to declare all persons contumacious who did not come forward to oppose the confirmation. On the occasion in question, proclamation was made, that all persons should come forward and make their objections in due form of law ; and when they did come forward, they were told that they could not be heard. The next instrument exhibited was—

“(7.) A summary petition ; This is the petition of this said proctor, that the bishop elect may be confirmed, upon his alleging and proving the regularity of the election and the merits of the persons elected ; which he doth in nine articles, setting forth, first, that the see was vacant, and had been vacant for some time ; secondly, that the dean and chapter, having first desired and obtained the royal licence, appointed a day for election, and duly summoned all persons concerned ; thirdly, that on that day they unanimously chose the person now to be confirmed ; fourthly ; that the election was duly published and declared to the clergy and people then assembled ; fifthly, that at the request of the dean and chapter the person so elected gave his consent to the election ; sixthly, that the person elected is sufficiently qualified by age, knowledge, learning, orders, sobriety, condition, fidelity to the king, and piety ; seventhly, that the dean and chapter, under their seal, intimated the election, and the name of the person elected, to the king ; eighthly, that the king had given the royal assent ; ninthly, that he had, by his letters patent, required the person elected to be confirmed.

“All which articles conclude with a petition, that in pursuance of the premises, confirmation may be decreed.

“Then the summary petition is admitted, and the Court decrees to proceed thereupon, and assign him a term immediate, to prove the particular matters contained in the petition ; for proof of which he exhibits the process of the election made by the dean and chapter ; the consent of the archbishop or bishop, and the royal assent ; and then prays a time to be presently assigned for final sentence ; which is decreed accordingly.”

The Court would see that where there is no opposition to the confirmation of the bishop elect, he was bound to exhibit proof in support of his election, and that he was qualified by learning, piety, &c., for the office of

\* This note from Gibson's Codex will be found at p. 61.



a bishop. And yet it was said that those who had the deepest interest in the election, and who had been summoned to come in and oppose the confirmation, were not to be permitted to appear and make their objections.

"(8.) The second schedule. Before sentence a second præconization of the opposers (if any be) is made at the fore door of the church, and (none appearing) they are declared contumacious by a second schedule."

So that a proclamation was a second time made for opposers to come in and make their objections, and on their failing to do so they were again declared contumacious. Only one case had occurred in which any opposition had been offered to any individual whom his Majesty had recommended to the office of a bishop; but in that case the opposition had not been made, as it was required to be done, "in due form of law." But in that case it was never pretended, but that if the opposition had been made in due form of law, and was well founded, it must have been received. The learned counsel then continued to read from *Burn's Ecclesiastical Law* as follows (p. 207):—

"But if any appear, it seemeth that they shall be admitted to make their exceptions in due form of law. To which purpose a passage in *Collier's Ecclesiastical History*, (vol. ii., p. 745,) is applicable:—'Soon after the recess of the Parliament, Bishop Laud was translated from Bath and Wells to London, and Mountague promoted to the see of Chichester. Before he was consecrated an unexpected rub was thrown in the way. At the confirmation of bishops there is public notice given that if any persons can object either against the party elected, or the legality of the election, they are to appear and offer their exceptions at the day prefixed. This intimation being given, one Jones, a bookseller, attended with the mob, appearing at the confirmation, excepted against Mountague as a person unqualified for the episcopal dignity, and, to be somewhat particular, he charged him with Popery, Arminianism, and other heterodoxies for which his books had been censured in the former Parliament. But Dr. Rives, who then officiated for Brent, the vicar-general, disappointed this challenge, for Jones had made some material omissions in the manner, and not offered his objections in form of law: particularly, the exceptions were neither given in writing, nor signed by an advocate, nor presented by any proctor of the court. Upon the failure of these circumstances the confirmation went on. The parliament, not at first apprized in point of form, were dissatisfied with the conduct of the vicar-general, and inquired into the behaviour of Dr. Rives on that occasion.'—Upon which it hath been observed, that Dr. Rives, a most eminent civilian and canonist, admitted that the opposition was good and valid, had it been legally offered; and that the Parliament of that time proceeded upon the same opinion."

He (the learned counsel) had already stated, that any opposition must be made by a proctor, properly instructed under proxy, and the objections must be in writing, signed by an advocate. That was not done in the case which was cited in *Burn*, but it was admitted, in that case, that the opposition was good and valid if it had been legally offered. But it was said that that case occurred in troublesome times, and that no weight attached to it. He contended, however, that it was not so. The case occurred in the year 1628, long before the troubles alluded to took place, and long before the decision of any courts could be impeached by reason of any troubles. The next proceeding was the taking the oaths.

"(9.) The oaths. These are four in number—two (viz., the oaths of allegiance and supremacy) in conformity to the statutes of the realm; and two others (viz., the oath of simony, and of obedience to the archbishop,) in conformity to the rules and canons of the church.

"(10.) The definite sentence, or the act of confirmation; by which the judge committeth to the bishop elected the care, governance, and administration of the spiritualities, and then decrees him to be installed or enthronized.

"And this is performed (in the province of Canterbury) by mandate from the archbishop to the archdeacon of Canterbury, to whom the right of installing the bishops of that province hath anciently belonged, and doth still belong."

"(11.) A public notary, by the archdeacon's command, records the whole matter of fact in this affair, in an instrument, to remain as authentic to posterity.

"After election and confirmation, and not before, the bishop is fully invested to exercise all spiritual jurisdiction. But he may not sue for his temporalities till after consecration."

That was the form of proceeding in those cases, but the statute of Henry VIII. had no reference to those forms. It was passed for the purpose of preventing any reference to the see of Rome in the election of bishops. It appeared from the title of that statute, and from every one of its provisions, that that was its sole object. The 25th of Henry VIII., chap. 20, was intituled "An Act for the non-payment of First Fruits to the Bishop of Rome." After reciting the statute 23rd Henry VIII., which was passed as a sort of compromise with the Court of Rome, the statute proceeded in the third section to enact—

"That no person or persons hereafter shall be presented, nominated, or commended to the said Bishop of Rome, otherwise called the Pope, or to the see of Rome, to or for the dignity or office of any archbishop or bishop within this realm, or in any other of the king's dominions; nor shall send nor procure there for any manner of bulls, breves, palls, or other things requisite for an archbishop or bishop, nor shall pay any sums of money for annates, first fruits, nor otherwise, for expedition of any such bulls, breves, or palls."

The fourth section prescribed the manner of electing archbishops and bishops, and enacted that at every avoidance of a bishopric, the king might grant to the dean and chapter a licence to proceed to election, with a letter missive, containing the name of the person whom they should choose, and if they should defer or delay the election above twelve days after the delivery of the letters missive to them, the King should nominate a bishop. The fifth section provided that in the case of such a nomination by the king, such person should be invested and consecrated

"With pall and all other benedictions, ceremonies, and things requisite for the same, without suing, procuring, or obtaining any bulls or other things from the see of Rome, &c."

The learned counsel then read the seventh section, which imposed the penalties of *præmunire* if the dean and chapter refused to proceed to the election for twenty days after the *congé d'élire* came into their hands, That act was passed to break off all connexion with the Bishop of Rome. and had nothing to do with the proceedings on confirmation, which must be conducted according to the common law and canon law. If the archbishop was to inquire into the fitness of the bishop, he must do that according to the usual forms of law, and that statute had nothing to do with it. Confirmation was not a single act, but a judicial trial, in which there were several parties proceeding by articles. There was, then, a judgment and sentence proceeding upon the proofs which had been adduced. It was upon that judicial proceeding on the part of the archbishop, and on that alone, that an inquiry or examination could take place as to the fitness in point of learning, doctrine, and piety of any one to be a bishop of the Church of England. A mistake might be made, the dean and chapter might be misled, or the crown might be imposed upon. He (the learned counsel) would take an extreme case, and suppose that an infidel had been elected and submitted for confirmation. That fact might be known but to one individual; and was not that individual, who knew of the error or vice of the bishop elect, to come in and oppose his confirmation? Was no effectual examination to be made? If not, an infidel might be

made a bishop; and were not the clergy of his diocese to be allowed to come forward and prove the unsoundness of his doctrine and teaching? The moment the bishop has been confirmed, he becomes an ecclesiastical judge, and is empowered to determine upon the soundness of the faith



all the deacons in his diocese; and he might refuse to ordain as priests those very deacons, who, if permitted, would have come forward to prove his own unsoundness in the faith. The jurisdiction of the bishop was exercised in secret, and against his decisions there was no appeal. And were all the deacons in the diocese to be placed under the power of a bishop who might hold the doctrine that there are three Gods, and were they not to be allowed to come in and oppose his confirmation? When the Court found that for century after century no bishop had been confirmed without that proceeding, and a solemn citation of all persons to come in and oppose, and that they were told that they should be heard; would that Court decide that that proceeding was nothing but a mockery and a delusion, and that, too, upon the most solemn of all subjects? He (the learned counsel) would now proceed to inquire whether there were no authorities since the passing of that statute, that opposers of the confirmation should be heard. He contended that there were, and he would show that the failure of one of those forms would make the whole confirmation void. The learned counsel then cited the case of 'Evans and Kiffin v. Ascuthe,' (Palmer, 457,) in which the Court of King's Bench, after stating the several previous steps in the election of a bishop, proceeded as follows:—

"Donques le Roy escrye al Archevesque de consecrate et iustaller le elect. Donque le Archevesq; mit un citation pour tous, que voile opposer le consecration, et prefix un certain jour, et al cest jour si nul veigne, tous sont pronounce contumaces, et le Evesq; confirme, et donq; il est consecrate."<sup>1</sup>

So it appeared that after the election, the king wrote to the archbishop, who sent a citation for all persons who wished to oppose the consecration, and if no one came upon the day appointed for that purpose, they were all pronounced contumacious, and the archbishop proceeded to confirm the election and to consecrate the bishop. The same case was reported in Sir William Jones, (p. 162.) That case decided that the archbishop was to consecrate only in case no one came in to oppose the confirmation; and all that was long after the statute of Henry VIII., and the case recited the duties of the archbishop as then well defined by law. Lancelottus, in his *Institutiones Juris Canonici*, which were referred to with commendation by Doddridge J. in the case in Palmer, said (lib. 1, tit. 9, sec. 5)—

"Confirmatio non conceditur, nisi cum causæ cognitione. Is autem, ad quem confirmatio pertinet diligenter examinare debet et electionis processum, et personam electi; est enim hoc generale, ut ad eum pertineat examinatio, ad quem manuum impositio spectat. Et cum omnia rite concurrunt, tunc munus ei confirmationis impendat. Quod si secus factum fuerit, non solum deiciendus erit indigne promotus, verum etiam indigne promovens puniendus. Nihil est enim quod Ecclesiæ Dei magis officiat, quam si indigni ad regimen assumantur animarum."<sup>2</sup>

And in the same book, and under the same title, at section 7, the heading was—

<sup>1</sup> Then the king wrote to the archbishop to consecrate and install the elect. Then the archbishop sent a citation to all persons that wished to oppose the consecration, and prefixed a certain day; and on that day, if no one came, they were all pronounced contumacious, and the bishop was confirmed, and then consecrated.

<sup>2</sup> "Confirmation is not granted, unless with a knowledge of the cause. And he to whom the confirmation belongs ought diligently to examine both the process of election and the person of the elect; for this is general, that the examination should belong to him to whom the laying on of hands pertains. And when all things duly concur, then let him bestow upon him the gift of confirmation. But if it shall be done otherwise, not only shall the person unworthily promoted be degraded, but also the person unworthily promoting be punished. For nothing is more injurious to the Church of God than that the unworthy should be appointed to the government of souls."

"In confirmatione faciendâ citandi sunt, quorum interesse potest. Et calumniosos oppositores puniuntur."<sup>3</sup>

The section said—

"Illud etiam confirmantem observare oportet, ne, dum nimîa in confirmando celeritate utitur, contra doctrinam Apostoli proprium affectum juri et æquitati præponat. Itaque, si co-electus aliquis, vel contradictor apparet, ante confirmationem nominatim vocandus est; alioqui si nemo apparet, in foribus ecclesiæ, in quâ electio facta est, generaliter edicendum erit, ut si qui sint, qui confirmationi futuræ velint opponere, ad contradicendum in assignato peremptorio termino presentes esse debeant. Quæ omnia locum habent, sive concorditer electio fuerit celebrata, sive non. Sciant tamen ii, qui contra electionem opponendum duxerint, se, si probationibus destituti fuerint, ab omni pœnitentiæ præsidio, exclusos legitimis pœnis esse subiiciendos."<sup>4</sup>

In *Ferraris Bibliotheca Canonica*, tit. "Confirmatio Electionis," it was said—

"Si electus co-electum aut specialem suæ electionis adversarium habeat, is ante confirmationem nominatim vocandus erit; alias ubi concors fuit electio, aut nullus nominatim se electioni opponit, generale ac peremptorium edictum proponendum est in ecclesiâ in quâ electio facta est; ut si qui sint, qui se velint opponere, constituto termino veniant. Confirmationes hisce non observatis factæ ex eodem capite declarantur viribus omnino carere, irritæ et nullæ."

"Quemadmodum olim electus a clero et populo, aut a rege nominatus, nullatenus pastor aut episcopus censebatur ecclesiæ vacantis, priusquam a metropolitano et episcopo provincialibus confirmatus, et in ecclesiæ pastorem et episcopus ordinatus esset; ita nec de jure communi et hodierno electi a capitulis Cathedralibus, aut nominati a Regibus, se administrationi Ecclesiæ sive in temporalibus sive spiritualibus quocumque prætextu immiscere possunt, ante confirmationem expeditam, &c."<sup>5</sup>

And then he gave several instances to bear out his statement. If opposers were not to be heard, what was the reason, that when the opposer was known, he was to have particular notice? and that when the opposers were not known, a general notice was held to be sufficient?

Lord DENMAN.—Can you carry confirmation further as to the practice in this country?

Mr. Justice ERLE.—No passage which you have cited shows that any person was to object to the fitness of the party. Identity only seems to be referred to in the passage in Lancelottus. It says, "*in personam*."

Sir F. KELLY.—The very circumstance that the proceeding was in a

<sup>3</sup> "In performing confirmation, all who may be interested are to be cited. And persons calumniously opposing are punished."

<sup>4</sup> "The person confirming ought to observe this also, that he does not, while he uses too much haste in confirming, prefer his own affection to justice and equity, contrary to the doctrine of the apostle. Therefore, if any co-elect person or contradictor appears, he is to be called on by name before the confirmation; otherwise if no one appears, it is to be proclaimed generally, at the doors of the church in which the election took place, that if there are any who wish to oppose the confirmation about to be, they ought to be present to contradict in the appointed peremptory term. All which things have place, whether the election has been celebrated unanimously or not. Nevertheless, let those who have thought fit to oppose the election know, that if they be destitute of proofs, they are to be subjected to lawful punishments, being excluded from all benefit of repentance."

<sup>5</sup> "If the elect has a co-elect, or a special opponent of his election, he will have to be called on by name before the confirmation; otherwise, where the election was unanimous, or no one by name opposed the election, a general and peremptory edict is to be put forth at the doors of the church in which the election took place, that, if there are persons who wish to oppose, they are to come at an appointed term. Confirmations made without these things being observed are declared from the same chapter to be altogether destitute of validity, being null and void."

"As formerly any one elected by the clergy and people, or nominated by the king, was in no respects considered the pastor or bishop of a vacant church before he had been confirmed by the metropolitan and bishops of the province, and ordained a pastor of the church, and bishop, so neither, according to the common law of this day, can persons elected by cathedral chapters, or nominated by the king, under any pretext whatsoever, mix themselves in the administration of the church, either in temporal or spiritual matters, before confirmation, &c."

court where there was a judge, and the parties appeared by proctors, and gave in their allegations in writing, signed by advocates, and that a sentence was afterwards pronounced, showed that the court was to inquire and receive evidence.

Mr. Justice COLERIDGE.—The objection might have been that Dr. Hampden was not the *persona electus*.

Sir. F. KELLY.—What were the matters into which the Court was to inquire? It was the election by the dean and chapter, the mandate of the Queen, the petition of the bishop, &c. All those were matters upon which the court was to determine, and upon which opposers were cited to come in. The citation called upon all persons to come in and oppose, but it did not say upon what grounds. The “summary petition” contained nine articles upon which the Court was to determine, and the sixth was:—

“That the person elected is sufficiently qualified by age, knowledge, learning, orders, sobriety, condition, fidelity to the King, and piety.”

The invitation was general for all opposers to come in and oppose the confirmation upon any of those grounds. The ground of objection might be that he was never elected, or it might be that he was deficient in learning or piety; and until the archbishop or vicar-general was satisfied upon all those points, he could not proceed to confirmation. The ground of objection to Dr. Hampden was expressly stated in the affidavits to be “unsoundness of doctrine and teaching.” The only question, then, was, whether they were to be admitted to proof of that. It was laid down in Ferraris, that if the bishop failed in any one of these points, the confirmation was null and void. Lyndewode, in his *Provinciale*, lib. 3, “De Jure Patronatûs,” tit. 22, p. 218, said:—

“Ex quâ conclusio apparet quod in negotio præsentationis, quod æquivalet negotio electionis, ut infra dicitur, non sufficit vocationem fieri, sed cum hoc opus est discussione negotii. Alia conclusio est, quod licet confirmatio electionis sine vocatione facta, sit irrita et inanis. Electio tamen tenet in suo robore et vigore. . . . Tertia conclusio est, quod si plures sunt co-electi, vel plures oppositores, singuli sunt vocandi, si de eis constet.”<sup>6</sup>

The election was not void, if there was no citation, but the confirmation was void, “irrita et inanis.” It was clear, also, that there must be a discussion, “opus est discussione negotii.” The learned counsel also cited the notes by John de Athon on the *Constitutions of Olhobon* in Lyndewode, (lib. 2, tit. 30,) to the same effect. Ayliffe, in his *Parergon*, after stating the issue of the *congé d’élire* by the king, proceeded as follows:—

“Within twelve days after the receipt of this licence, or *congé d’élire*, they (the dean and chapter) are to proceed to the election, which is done after this manner, viz., the dean and chapter having made their election must certify it under their common seal to the king and to the archbishop of the province and to the bishop elected; and then the king gives his royal assent, under the great seal, directed to the archbishop, commanding him to confirm and consecrate the bishop thus elected. And the archbishop subscribes it, viz., ‘fiat confirmatio,’ and grants a commission to the vicar-general to perform the acts requisite to that purpose.”

“Thereupon the vicar-general issues forth a citation to summon all persons who oppose this election to appear, &c., which citation is affixed by an officer of the Arches on the door of Bow Church, and he makes three proclamations for the opposers, &c., to appear: after same officer certifies what he has done to the vicar-general; and no person appearing, &c., at the time and place appointed, &c., the proctor for the dean and chapter exhibits the royal assent and the archbishop’s commission directed to his vicar-general, which are both

<sup>6</sup> From which the conclusion is clear that in the affair of presentation, which is equivalent to that of election, as is stated below, it is not sufficient that a citation be made, but along with this there must be a discussion of the affair. Another conclusion is, that although the confirmation of election made without citation is null and void, yet the election holds in all its force and vigour. . . . A third conclusion is, that if there are several persons co-elect, or several opposers, they are each to be called, if they are known.

read and accepted by him. Afterwards the proctor exhibits his proxy from the dean and chapter, and presents the new-elected bishop to the vicar-general, returns the citation, and desires that three proclamations may be made to the opposers to appear; which being done, and none appearing, he desires that they may proceed to confirmation in *pœnam contumaciæ*; and this is subscribed by the vicar-general in a schedule, and decreed by him accordingly. Then the proctor exhibits a summary petition, setting forth the whole process of election, in which it is desired that a certain time may be assigned him to prove it, and this is likewise decreed by the vicar-general. Then he exhibits the king's and archbishop's assent once more, and that certificate which he returned to the vicar-general, and of the affixing the citation on the door of Bow church, and desires a time may be appointed for the final sentence, which is also decreed. Then three proclamations are made again for the opposers to appear, but none coming they are pronounced contumacious; and 'tis then decreed to proceed to sentence; and this is in another schedule read and subscribed by the vicar-general."

In *Gibson's Codex*, which contained the whole law upon the subject, it is said (vol. i., p. 110)—

"Citatio contra oppositores which (the time of the confirmation being first fixed,) is published and set up by order of the archbishop at the church where it is to be held, as well to notify the day of the confirmation as to cite 'omnes et singulos oppositores (si qui sint) in specie alioquin in genere, qui contra dictam electionem, formam ejusdem, personam in hac parte electam, dicere, objicere, excipere, vel opponere voluerint,' to appear on that day; according to the direction of the ancient canon law, where it makes all confirmations void that are performed 'nullis vocatis et non discussio negotio;' and then adds 'vocationem autem hujusmodi nominatim, ubi est co-electus, vel apparet oppositor, alias generaliter in ecclesiâ in quâ electio facta est, ut si qui sint qui se velint opponere, compareant assignatione peremptorio termino competenti, faciendam esse censemus. Quæ, etiamsi electio in concordia celebrata fuerit volumus observari.'"<sup>7</sup>

So that it appeared, that when the opposers were known, they were to be cited *nominatim*, and if not known, the citation was to be made *generaliter in ecclesiâ*. It was a necessary and essential point of the confirmation that those allegations on the part of the bishop elect should be given in and proved, and that notice should be given before the day of trial, and once or twice upon the day. That citation was not limited to one objection, but it invited generally all opposers to come in and oppose on any ground which would be valid in point of law, and when the bishop was to prove his fitness in point of piety and learning, it was most important to ascertain whether he was sound in doctrine and teaching. As he would be placed in a position of authority in the church, where he would have the power to ordain deacons and priests, the question whether he was of sound doctrine was all-important; and it was upon that point that the objection was made in the present case. It was for that Court, looking at the statute of Henry VIII., to decide whether there was anything in that statute which compelled the vicar-general, after having made proclamation for all opposers to come in and they should be heard, to say to them, when they came forward to make their objections in due form of law, that their opposition must be rejected altogether, and that they could not be heard. The statute itself not merely says that confirmation shall take place, but that it shall do so with all ceremonies. What those

<sup>7</sup> "The citation against opposers,' which (the time of the confirmation being fixed,) is published and set up by order of the archbishop at the church where it is to be held, as well to notify the day of the confirmation as to cite 'all and every opposers (if there be any) specially, otherwise generally, who have wished to speak, object, except, or oppose against the said election, the form of the same, (or,) the person in this part elected,' to appear on that day; according to the direction of the ancient canon law, where it makes all confirmations void that are performed 'no person having been cited, and the matter not having been discussed;' and then adds 'we consider that a citation of this kind is to be made by name, when there is a co-elect or an opposer appears, otherwise generally in the church in which the election took place, that if there are any who wish to oppose, they must appear at an assigned, peremptory and competent term. Which things we wish to be observed, although the election may have been performed in unanimity.'"

ceremonies are, the writers already quoted amply show. The learned counsel then referred to the affidavits, and was proceeding to read therefrom in order to show the precise nature of the objections which were made to the soundness of Dr. Hampden's doctrines and teaching, but was stopped by

Lord DENMAN, who said that it would not be necessary for the learned counsel to enter upon that.

Sir F. KELLY said, that he would content himself with saying that the objections were of that kind, that if true, the Archbishop of Canterbury would be bound not to consecrate the bishop.

Mr. Justice COLERIDGE.—Does the affidavit state that the objections were propounded in due form of law?

Sir F. KELLY said it did. The articles of objection were signed by an advocate, the proxies were under seal, and notice had been given to the judge. The next question was, whether the writ of *mandamus* was the proper remedy to be pursued. It was a judicial proceeding, and it was the duty of the Court to proceed according to the forms of law. It was the duty of the Court to give notice, and to hear the opposers, and on their failure to do so, their subsequent proceedings were null and void. The learned counsel then called the attention of the Court to the form of the decree of confirmation, which he read. It recited that the vicar-general,

“ Having heard, seen, and understood and discussed the merits and circumstances of a certain business of confirmation of an election made and celebrated in the person of the Rev. R. D. Hampden, D.D., elected bishop and pastor of the cathedral church of Hereford, which is controverted and remains undetermined before us in judgment; and having considered the whole process had and done in the business of such confirmation, and having observed all and singular the matters and things that by law in this behalf ought to be observed—we have thought fit, and do thus think fit, to proceed to the giving our definitive sanction or final decree in this business, in manner following:—Whereas by the acts enacted, deduced, alleged, propounded, exhibited, and proved before us relating to such confirmation, we have amply found and do find that the said election was rightly and lawfully made and celebrated by the dean and chapter of the said cathedral church of Hereford, of the said rev. the bishop elect, a man both prudent and discreet, deservedly laudable for his life and conversation, of a free condition, born in lawful wedlock, of due age, and an ordained priest, and that there neither was nor is anything in the ecclesiastical laws that ought to obstruct or hinder his being confirmed by our authority bishop of the said see,” &c.

The vicar-general then proceeded to decree the confirmation of the bishop elect. It was the case of an inferior court which had a case before it which was undetermined, upon which some of the parties had been heard, and some refused. In such a case, the only remedy was by writ of *mandamus* to the Court to hear those parties. It was similar to the case where a court of quarter sessions, or magistrates, were bound to summon parties, and refused to hear them. In the present case the Court had refused to let the parties appear. The learned counsel then cited the case of “*Regina v. the Justices of Kent*,” (in 14 East,) as an authority. In that case, if the justices had refused to hear the party, in the exercise of a discretion vested in them by law, that Court would not have interfered; but, as they refused to hear him, on the ground that they had no power to hear him, the Court granted the rule for a *mandamus*, in order to set them right. So, in the present case, the vicar-general had clear authority to hear those parties; and, if he had heard them, he could have decreed as he pleased: but having refused to hear them, or to admit them to appear to become parties, that Court would grant the *mandamus*. The learned counsel also cited the case of “*Rex v. Gort*,” (1 Jebb



Symes, 388,) and also "*Rex v. the Justices of Middlesex*," (4 Barnewall and Alderson, 301.) Upon another set of affidavits he (the learned counsel) was instructed to move for a prohibition, to prevent the decree of the inferior court from being carried into effect.

LORD DENMAN.—You cannot have both writs together.

SIR F. KELLY.—It is, however, clear that if a *mandamus* will not lie, a prohibition will lie in this case. He would not, however, enter upon that subject at present, but would content himself with citing the case of "*Gould v. Gaffer*," (5 East, 345,) where that Court held that where a Court proceeded in a matter within its jurisdiction, but upon a misconstruction of an act of Parliament, a prohibition should issue. The inferior court is bound to proceed with this case, and to proceed according to law. Here, from a misconstruction of the act of Parliament, the inferior court has taken a wrong step in the administration of justice—it has refused to hear parties who are entitled to be heard, and these parties now come to your lordships to claim, by *mandamus*, to be admitted into court, and to be heard, and to have the case legally determined. I submit to you, therefore, without dwelling further on the great importance of the question, that this is a case in which the parties complaining are entitled to relief. The opposition is *bona fide*. It is founded on grounds which, if they exist in point of fact, and can be substantiated by proof, ought to prevent by law the confirmation of the election. Having laid these facts before your lordships, I shall only say that I hope you will think, without reference to parties, or even to consequences, that this is a case of a most grave and important character, and fit for the judgment of this Court, and that I am entitled to have a *mandamus* issue, commanding the judges of this inferior court to admit and to hear the parties.

LORD DENMAN, after consulting for a few minutes with the other judges, said that the learned counsel could take a rule.

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## ARGUMENT.

COURT OF QUEEN'S BENCH—MONDAY, JANUARY 24.

[Sittings in Banco.]

*The Queen v. The Archbishop of Canterbury and his Vicar-General.*

On the 14th inst. a rule had been granted to show cause why a *mandamus* should not issue, directed to the Lord Archbishop of Canterbury, and to his Vicar-General, commanding them, or one of them, at a Court, to be therefore duly holden, in the business of the confirmation of the Rev. R. D. Hampden, D. D., to the bishopric of Hereford, to permit and admit to appear, in due form of law, the Rev. R. W. Huntley, the Rev. J. Jebb, and the Rev. W. F. Powell, to oppose the said confirmation of the said election of the said Dr. R. D. Hampden, and to hear and determine upon such opposition, and upon the articles, matters, and proofs thereof.

The ATTORNEY-GENERAL (with whom were the Solicitor-General and Mr. M. D. Hill) now showed cause against the said rule.

The court was crowded from an early hour, by members of the bar and other persons anxious to hear the argument.

The ATTORNEY-GENERAL, having read the rule, said that he was instructed to show cause against the rule which had been granted on the motion of Sir Fitzroy Kelly; but before he proceeded to do so, he had

an application to make to the Court, which was, that he might be assisted in the argument by a learned friend from Doctors' Commons. The usual course in such cases was to make formal motion to the Court.

Lord DENMAN, after conferring with the other judges, said, the Court would hear one of the learned doctors on each side.

The ATTORNEY-GENERAL then said,—My Lords, I am instructed by the government, and I appear with the full concurrence of the Lord Archbishop of Canterbury, to show cause against this rule; and it appears to me that there are so many objections to it, that I feel in some difficulty to know in what order I shall proceed in addressing your Lordships. But it may, perhaps, be more convenient that I should take the course pursued by my learned friend Sir F. Kelly, when he moved for the rule, and should take the matter from its very origin, and after referring to the statute, submit to you the various objections as they arise in succession. It will be unnecessary for me to do more than shortly to recall to your recollection the course of the proceedings in this case, without, at present, drawing attention in particular to each step of them. The affidavits on which the rule has been obtained, and on which alone I appear to show cause, set forth the vacancy in the Bishopric of Hereford, the *congé d'élire* to the dean and chapter, the letter missive of the Crown, declaring the piety, wisdom, and learning, of the person directed to be elected according to the form set out in Gibson's Codex (which description of him is, it appears, now dissented from by some persons). On the 28th of December last Dr. Hampden was elected, and that election was certified to the Crown under the seal of the Dean and Chapter. Thereupon Her Majesty issued her letters patent, addressed to the Archbishop of Canterbury, commanding him to confirm the election, and to invest and consecrate the bishop elect.

Then comes the commission, issued by the Archbishop to Dr. Burnaby, the Vicar-General, the Right Hon. Dr. Lushington, and Sir John Dodson, requiring them to proceed to the confirmation. The affidavit then sets out what took place at the assembling of the Court, the proceeding to identify the sentence of confirmation (which is set out), and then it is stated that the objectors appeared, not for the purpose of impeaching the process of the election, not for the purpose of raising objections *in personam* of Dr. Hampden, but for the purpose, as stated in the affidavit, of making objections to his doctrine and teaching. They say,—

“The opposition so intended to be made to the then present confirmation of the election of the said Dr. R. D. Hampden to the Bishopric of Hereford was founded upon two books, written, printed, and published by him, the avowed purport or object of the first of the said books being to illustrate the injurious effects of dogmatism in theology; and in both books, in illustration of the (supposed) effect of dogmatism in theology, it is well known, or justly suspected that, whether so by him intended or not, he hath, in fact, spoken or declared in the manifest derogation or depraving of many things in the Book of Common Prayer, and both maintained or affirmed divers doctrines, repugnant, or at least contrary, to the 39 articles of the Church of England, especially those, or most or many of them, particularly concerning faith and doctrine. And these deponents further say, that expressly by reason of or with reference to such his two books aforesaid he the said Dr. R. D. Hampden (the recently-appointed Regius Professor of Divinity in the University of Oxford), in the year of Our Lord 1836, incurred the solemn censure of that University, and which censure (the said Dr. R. D. Hampden neither then nor since having in any manner explained, or removed, or retracted those parts of his teaching which have led to his being so justly suspected as aforesaid) was, in effect, re-affirmed by the said University in the year of our Lord 1842. And these deponents further say, that articles alleging and setting up such unsoundness of doctrine and teaching of the said Dr. R. D. Hampden had been prepared and signed by certain learned civilians, ready to be given in an affidavit, had the said parties been permitted to appear, and which these deponents are advised and believed to present and contain sufficient ground of opposition to the confirmation of

said Dr. R. D. Hampden; and the deponent, the said Richard Edward Austin Townsend, was ready to bring in, in due form of law as aforesaid, and then and there, if called on so to do, to sustain by proof."

The objection therefore to Dr. Hampden relates to his doctrines only, not to the election of him, nor to a personal objection to him, but solely to his supposed doctrines. The objection to him is founded on two works published a long time ago, one of which was, it is said, condemned in the convocation at Oxford, and this, and this alone, is the foundation of all the proceedings in the present case.

The first point I shall insist on before you is, that these matters of form, on which my learned friend, Sir F. Kelly, relied the other day, and on which he founded his argument, contending that they were not mere matters of form, but of substance, are by the very terms of the statute of Henry VIII., mere matters of form, and apply to acts which were merely and entirely ministerial.

My second objection will be (because it may be convenient to point out now, as far as possible, the course I intend to adopt) that, assuming the archbishop is not a mere ministerial officer, nay, assuming that he is a judicial officer, still being so in a matter of this sort only, the proper remedy against him is by appeal to the Privy Council, and not by *mandamus*; for no *mandamus* will lie to a court which has authority, and which acts within the scope of its authority, and that, consequently, this attempt to substitute a *mandamus* for an appeal must fail.

My third objection will be, if the parties complained of did not constitute a court, properly speaking, but might be considered as a *quasi* judicial inquiry, that that court possessed no means of investigating satisfactorily the subject matter of this peculiar charge; and that, if it was a subject of judicial inquiry, it should have been made under the Church Discipline Act; and that that court had no right to try such an inquiry any more than it had to try a charge of a mere temporal offence.

My fourth objection to this rule will present a variety of considerations, showing that this is not a case in which, under any circumstances, a *mandamus* will lie to the archbishop. I need not now, but shall presently, enter into a course of argument in order properly to understand the present objections, which, in truth, depend on the construction of the statute of Henry VIII. In order to understand that statute, it will be necessary for me to consider what was the practice of canonical elections before the passing of that act. And though the question would open a wide field for discussion, as to what may or may not be books of authority on the canon law; and though I think, that in the mere statement of that subject for discussion, I put an insuperable objection to the referring to books of that description, for in dealing with *canon* law we have to deal with *foreign* law, of which you can know nothing from books, and cannot judge of the authority of the books themselves, but must take the law as you would take any other matter of evidence; yet I shall just glance at them, and I think that a mere glance will be sufficient to show the nature of these canonical authorities.

I find the matter sufficiently explained in a book to which my learned friend referred, but in a passage which he did not notice. In Ayliffe's *Parergon*, p. 126, where he is treating of the subject of the election of bishops, it is said,—

"When cities were at first converted to Christianity, the bishops were elected by the clergy and people; for it was then thought convenient that the laity, as well as the clergy, should be considered in the election of their bishops, and should concur in the election."



that he, who was to have the inspection of them all, might come in by a general consent.

"But as the number of Christians increased, this was found to be inconvenient; for tumults were raised, and sometimes murders committed, at such popular elections; and particularly at one time, no less than 300 persons were killed at such an election.

"To prevent the like disorders the emperors, being then Christians, reserved the election of bishops to themselves; but in some measure conformable to the old way, that is to say, upon a bishop's death, the chapter sent a ring and pastoral staff to the emperor, which he delivered to the person whom he appointed to be bishop of that place.

"But the Pope, or Bishop of Rome, who in process of time got to be the head of the church, was not pleased that the bishops should have any dependence upon princes; and therefore brought it about, that the canons in cathedral churches should have the election of their bishops; which elections were usually confirmed at Rome.

"But princes had still some power in those elections. And particularly in England, we read, that in the Saxon times all ecclesiastical dignities were conferred by the king in parliament. Ingulphus, abbot of Crowland, in the time of William the Conqueror, tells us, that for many years past there had been no canonical election of prelates, for that they were donative by delivery of the ring and pastoral staff; the one signifying that the bishop was wedded to the church, and the other was an ensign of honour, always carried before him, and as a token of that support which he ought to contribute to the church, or rather that he was now become a shepherd of Christ's flock."

And in that way bishops came to be chosen by deans and chapters. It appears, therefore, from this general statement, that bishops, having at first been elected by the people and the clergy, that election was afterwards limited to the clergy. By the charter of king John the power of electing bishops was given to the dean and chapter, and a simple *veto* on the election was reserved to the Crown.\* The Pope, however, for purposes of his own, desiring and insisting on the confirmation by himself, and the confirmation being, according to the doctrine of that church, infallible, John granted that such proceedings should take place, but expressly reserved to himself the power to nominate the persons who were to be elected.

"King John, after several contests, by his charter, acknowledging the custom and right of the crown in former times, yet granted by common consent of the barons, that the bishops should be eligible by the chapter; which after was confirmed by divers acts of parliament. Which election by the chapter was to be a free election, but founded withal upon the king's *congé d'élire*, and afterwards to have the royal assent; and the new-elected bishop was not to have his temporalities restored until he had sworn allegiance to the king; but it was agreed that confirmation and consecration should be in the power of the Pope, by which means he gained in effect the disposal of all the bishoprics in England."

You will find the same matter shortly stated in the 1st Institute, c. 11, p. 134. It is important, therefore, to consider, with reference to this question, what is a canonical election; because, I think, if I can succeed in making the court understand what was required before the passing of the act, I can show that by the statute there has been a studied attempt to exclude all inquiry whatever after the election. For that purpose I may refer to Lancelottus himself, who was mentioned the other day as a great authority, which he is not, and which he never was, but whose work is one that may be usefully referred to. For all these books follow the language of what was stated to be the law before the act. Lancelottus points out the various requisites of a canonical election at p. 70,

\* The following is the charter of king John for the free election of prelates:—

"By this our present charter we ordain, that henceforth and for ever, in all and singular churches of our realm, the elections of all greater and lesser prelates shall be free: saving to us and to our heirs the custody of the churches, &c., during the vacancy. When prelaties become vacant, the electors may freely appoint as their pastor whomsoever they please, having first requested from us leave to elect; which if we should refuse, let the electors proceed nevertheless to a canonical election, and then demand our assent, which we will never refuse, unless upon reasonable grounds." (Dated A.D. 1214.)—WV

III, i. 545.

book 1, tit. 7. In treating of the various steps in the election, you will find a large title “Of those who are qualified to elect and to be elected.” A long series of qualifications is there given, and these were most important to be considered, for at that time the bishop was bound to examine the *processum electionis*, and consequently was bound to consider the qualifications of the persons proposed to be elected—as, if they were of age, of free birth, or if they had of themselves been busy in soliciting the appointment; so that if the Bishop of Hereford had asked to be made the bishop, canonically speaking, that would have been an objection to his eligibility. That having been so, and there having been considerable discussion, as to persons qualified to elect and to be elected, then came the next question; and as to title nine various heads were stated, and into all these the authorities having the power of confirmation were bound to examine. Lancelottus, in describing their duty, said—

“Is autem ad quem confirmatio pertinet, diligenter examinare debet et electionis processum et personam electi; est enim hoc generale, ut ad eum pertinet examinatio, ad quem manuum impositio spectat.”\*

On this you see it is the duty of him who is to confirm to examine the “*processum electionis*,” and that will be found to be a most important observation. Why? Because, when you come to the form of confirmation, you will find that there may be at an election a majority of disqualified persons, and so, under the ancient canonical law, the election could not have been perfected till after confirmation. It was, under that law, necessary to be satisfied that the election was perfect, as well by reason of the sufficiency of the electors as by reason of the sufficiency of the elected. I do not stop to inquire now what is the proper meaning of the words *persona electi*, and whether they mean more than the identity of the party; it is sufficient for me now to point out what is the canonical law, for the purpose of pointing to another passage of the same work and a different passage of the same title. The passage I allude to is this—

“Illud etiam confirmantem observare oportet, ne dum nimia in confirmando celeritate utitur, contra doctrinam Apostoli, proprium affectum juri et æquitati præponat. Itaque, si co-electus aliquis, &c.”†—

Therefore if the party, who has an equal number of votes, should claim—“*vel contradictor apparet*,” that is, if objection should be made to the qualifications of the electors and the elected, they must be examined into. That raises a most important question; for, at the time of the election, under the canonical law, if the man elected was under age, had been twice married, or was subject to any similar objections, his election was not lawful. If any person was a *contradictor* at the time of the election, he had the opportunity of a further appeal at the time of the confirmation.

“Itaque si co-electus aliquis vel contradictor apparet, ante confirmationem nominatim vocandus erit, alioqui si nemo apparet, in foribus ecclesiæ in quâ electio facta est, generaliter edicendum erit, ut si qui sint qui confirmationi futuræ velint opponere, ad contradicendum in assignato peremptorio termino præsentem esse debeant. Quæ omnia locum habent, sive concorditer electio fuerit celebrata sive non.”‡

\* “And he to whom the confirmation belongs ought diligently to examine both the process of election and the person of the elect; for this is general, that the examination should belong to him to whom the laying on of hands pertains.”

† “The person confirming ought to observe this also, that he does not, while he uses too much haste in confirming, prefer his own affection to justice and equity, contrary to the doctrine of the apostle.”

‡ “Therefore, if any co-elect person or contradictor appears, he is to be called on by name before the confirmation; otherwise, if no one appears, it is to be proclaimed generally, at the doors of the church in which the election took place, that if there are any who wish to oppose the confirmation about to be, they ought to be present to contradict in the appointed peremptory term. All which things have place, whether the election has been celebrated unanimously or not.”

And so if there was a *coelectus*, that is, a person elected by an equal number of votes with another candidate, his claim could be considered. And Ferraris, another writer referred to by my learned friend on the same subject, in his "*Bibliotheca Canonica*," says, under the title "*Confirmatio Electionis*:"—

"Si electus co-electum aut specialem suæ electionis adversarium habeat, is ante confirmationem nominatim vocandus erit; alias ubi concors fuit electio, aut nullus nominatim se electioni opponit, generale ac peremptorium edictum proponendum est in ecclesia, in qua electio facta est; ut si qui sint, qui se velint opponere, constituto termino veniant. Confirmationes hisce non observatis factæ ex eodem capite declarantur viribus omnino carere, irritæ et nullæ."\*

If all things were properly performed, then the election was held to be good. If there was an opposing candidate who had received the same number of votes, a *co-electus*, he was at the confirmation cited by name; if not, then everybody was cited generally; and this was for the purpose, if need existed, of examining into the qualifications of the electors and elected. Such was the general purpose of these citations under the old law and before the statute. But this was not all. Persons not qualified according to the canonical law might be elected, by the direction of the Pope, upon a *postulatio*, by virtue of which all the various qualifications required in other persons were dispensed with in their favour. It is important to consider this circumstance, because it explains much of the other matter, and shows what was the power of the Pope, as head of the church, and the power to which, as head of the church, the King succeeded. After confirmation thus made, there follows, in these old writers, the chapter of consecration, and there the whole of the previous proceedings are again referred to; and it is important to observe, that there, and on these occasions, there was not offered ground, nor any opportunity whatever, for these objections of a personal kind, either to the electors or the elected. Then, in order to show the authority of the Pope in another matter, namely, in elections taking place in a foreign country, there follows a chapter, tit. 8, of what is a most important part of the consecration of a bishop—the chapter *de Receptione et Auctoritate Pallii*. And after that comes a chapter on what the bishop is to preserve and what he is to do after election.

I think I gather from these books, therefore, that in treating of a canonical election, according to the Roman law, there is a long discussion, first, as to the persons who may elect or be elected, that qualifications are required in both, that if there is an equality of votes the discussion, as to the respective rights of the *co-electi*, may be raised at the confirmation, as, indeed, may any discussion as to the qualifications of all the persons connected with the election, and that after that there is no opportunity of inquiry, for then follows an investiture, a form which makes the appointment of the bishop perfect. I shall now again refer to a book of which my learned friend made mention. That is, "Ferraris," who, after describing the forms of a confirmation, (p. 216, § 6—10,) says, "Confirmationes, hisce non observatis, factæ, ex eodem capite declarantur viribus omnino carere, irritæ et nullæ."† Therefore, he says, if these things are not done the

\* "If the elect has a co-elect, or a special opponent of his election, he will have to be called on by name before the confirmation; otherwise, where the election was unanimous, or no one by name opposed the election, a general and peremptory edict is to be put forth at the doors of the church in which the election took place, that, if there are persons who wish to oppose, they are to come at an appointed term. Confirmations made without these things being observed are declared, from the same chapter, to be altogether of no validity, being null and void."

† Quoted in page 59.

whole is void. The extract which thus concludes is, however, but an extract from the Third Council of Lateran, which occurred in the time of Innocent III., and which was never recognized in this country as a part of the law in a canonical election. These writers all refer to one another, and point out what they deem the strict mode of election. I am not interested in objecting to the strictness of that election, for the greater was that strictness in the olden times, the more certain is the construction of the statute of Henry VIII.

You will find that my learned friend has likewise referred to certain treatises written in this country, and on examining them you will find, that they have used precisely the same language and quoted precisely the same authorities as the foreign jurists. From them I may make the same quotations that he did, but with the view of applying them to an exactly opposite purpose. Ayliffe's *Parergon*, p. 245, was a book he referred to; but that speaks not of the election of bishops, but of canonical elections properly so called, they being in those days the elections of deans, canons, &c., and every passage there has reference to them, and with this remarkable circumstance, that Ayliffe has a chapter referring to the election of bishops, but which has no relation to the statute in which these requisites of canonical elections are not attended to. Lyndewode's "*Provinciale*," p. 280, follows in the same words, and I shall not therefore repeat them. All this is but the statement of what were the rules of the canon law before the statute, and the only instance of reference to which before the statute is to be found in the election of Cranmer, which took place just before it was passed, and in the 23d or 24th of Henry VIII. It is thus stated in Burnet's "*History of the Reformation*," (p. 123, 4to edit. p. 259, 8vo.):—

"In the end of January the King sent to the Pope for bulls for Cranmer's promotion, and though the statutes were passed against procuring more bulls from Rome, yet the king resolved not to begin the breach till he was forced to it by the Pope. It may easily be imagined that the Pope was not hearty in his promotion, and that he apprehended ill consequences from the advancement of a man who had gone over many courts of Christendom disputing against his power of dispensing, and had lived in much familiarity with Osiauder and the Lutherans in Germany. Yet, on the other hand, he had no mind to precipitate a rupture with England; therefore he consented to it, and the bulls were expedited, though instead of annates there were only 900 ducats paid for them. They were the last bulls that were received in England in this king's reign, and therefore I shall give an account of them as they are set down in the beginning of Cranmer's register. By one bull he is, upon the King's nomination, promoted to the archbishopric of Canterbury, which is directed to the King; by a second, directed to himself, he is made archbishop; by a third he is absolved from all censures; a fourth is to the suffragans; a fifth to the dean and chapter; a sixth to the clergy of Canterbury; a seventh to all the laity in his see. An eighth to all that held lands of it, requiring them to receive and acknowledge him as archbishop. All these bear date the 21st of February, 1533. By a ninth bull, dated 22nd of February, he was ordained to be consecrated, taking the oath that was ordained in the pontifical. By a tenth bull, dated the 2nd of March, the pall was sent to him; and by an eleventh, of the same date, the Archbishop of York and the Bishop of London were required to put it on him. These were the several artifices to make compositions high, and to enrich the apostolical chamber; for now that, about which St. Peter gloried that he had none of it (neither silver nor gold), was the thing in the world for which his successors were most careful. When these bulls were brought into England, Thomas Cranmer was, on the 30th of March, consecrated by the Bishops of Exeter, Lincoln, and St. Asaph."

So that the whole of this was done on the authority of the Pope. At that time everything was supreme in the Pope. There was no other authority, and there could have been no challenge by anybody, for it is absurd to suppose that to the Pope, who was deemed infallible, there could have been interposed any objection, or that he would have allowed *any interference with his sentence*. It may be observed, that notwith-

standing the charter of King John, which gave canonical admission to bishops, and notwithstanding the statute of Henry VIII., the appointment lay with the King, and all the sees are now donative, yet in all, by reason of certain anxieties on the part of those who may profit by them, the election is now by *congé d'élire*. The small value of a *congé d'élire* has been shown, not by the mere reasonings of text writers, but by a positive decision of this court in the time of James I. In the case of *O'Brian v. Knivan*, Palmer, p. 22; Croke James 552, 2; Roll. 101; and Fitz. Nat. Brev. 296, which was a writ of error from the Queen's Bench in Ireland, it appeared that one bishop had been appointed thus:—

“In the 6th Edward VI. the king, by his letters patent, under his hand and under his privy signet, directed to Sir James Crofts, deputy, Thomas Lusack his chancellor, and others his council, signified that he elected and appointed John Bale to be Bishop of Ossory, requiring them to take such order for his placing and installation as by the orders and laws of our realm of Ireland is necessary. Afterwards, the deputy being removed, the chancellor and the two others being made justices of Ireland, they without any other warrant made letters of commission under the great seal of Ireland directed to the Archbishop of Dublin in this manner, &c., and that accordingly he was consecrated.”

A question afterwards arose concerning his title to certain lands, and the validity of his election to the bishopric was disputed. The judgment is thus stated :—

“A second reason that Bale was never bishop was because the direction was that they should take order for his creation, and making him bishop according to the laws of Ireland, which ought to be by writ of *congé d'élire*, which being returned, then a patent should be made unto him under the great seal there; and then a commission to consecrate him. And so is the law and use in England. And so was the use and law in Ireland until the statute of 2d Elizabeth, made there, which gives authority to the Queen and her successors to create bishops by their patent, without *congé d'élire*, and so these circumstances shall not be observed, but an immediate creation by patent. But it was resolved that this statute did not give unto her any new power, but it was only a restitution of the common law, and that the King here and also in Ireland, before the said statute, might create a bishop by his patent without any writ of *congé d'élire*, which is but a form or ceremony which the kings of this realm have agreed to observe. But if they will not observe this course, it is well enough. Wherefore this creation before that statute was good enough.”

That case clearly establishes, on the authority of a solemn decision on a writ of error, that notwithstanding and without the statutes there referred to, the King may appoint a bishop by patent, and that a *congé d'élire* is a mere form. There is a celebrated matter which Home mentions, where there was a refusal to elect a bishop nominated by the Crown :—

"Et Mountague dit, que ceo letter le Roy ne fuit authority; mes signification del pleasure le Roy. Fletcher, ne est question, et ceo fuit grant del auter part, que Roy poit fayre Evesque sans election del deane et chap, per que Bale est bon evesque. Et le Court teigne ceo cleere, et ne voyle ceo traher in question; car est prerogative le Roy in cest part. Fletcher, donque Bale esteant loyal evesque, quant Roine Mary fait Tannery evesque ceo fuit voyd act. Car le Roine fuit deceive in le grant." Again, "Crook voile avera argue, que Bale ne fuit loyalment create sans election, mes les Justices luy interrupt; et Dodderidge dit a luy, que les Royes d'Anglet. ont tous foits dispose de les evesqueries deins lour dominions sans le Pape, come supream founders et patrons; come est a voire 10 E. 3. 22. E. 3. 17. E. 3. et use a doner eux a lour creation per annulum et baculum, et ceo fait eux in nostre ley; mes le consecration fuit tous foits per clergie, et ceo continue, tanque le Lateran Counsel, en que fuit un canon fait, que nul spiritual dignity serra receve per maines de lay person. Mes nient obstant cest canon H. 2, ne voyle obever le Pape in ceo point; et Mountague dit, que il ad veyer un liver in que fuit escrie, que le Roy H. 3. soloit dire, que il voile plus tost departe ove son corone, que il perdra ce prerogative Royal; Dodd. dit, que Roy John fuit le primer que yeald le election des evesques al Pape. Cujus chartam vide in Matthew de Paris verbatim, mes sur ceo le Roy ferra un conge d'eslier (*viz.*) quant un evesque fuit mort, le deane et chapter doivent certifier al Roy le mort evesque. Et sur ceo le Roy ferra un conge d'eslier, et quant ils sur ceo ont fait chose, doivent ceo certifier in le Chancery et donque le Roy confirme a luy; et quant l'en



est issint confirme per Roy, le Roy conferre les temporalities sans confirmation, si lui pleist; et pur ceo per opinion de tous justices le rule fuit done, que judgment soit confirme.”\*

I come now to the statute of Henry VIII., which will dispose of the whole of this question. The 25th of Henry VIII., c. 20, recites the statute of Annates, 23rd of Henry VIII., which is not printed at large among the other statutes. It refers to the practice of procuring bulls from the see of Rome at great expense, and the payment of annates or first fruits to the Bishop of Rome; and in the 2d section it says, that though the Bishop of Rome, otherwise called the Pope, had been informed and certified of the said statute of 23rd of Henry VIII., “to the intent, that by some gentle ways and means, the said exactions might have been redressed, yet the said Bishop of Rome had hitherto made no answer of his mind therein to the King’s Highness.” It then proceeds to declare, that His Majesty has given his Royal assent to the said act. It then proceeds, in the third section, to enact, that—

“No person or persons hereafter shall be presented, nominated or commended to the said Bishop of Rome, otherwise called the Pope, or to the see of Rome, to or for the dignity or office of any archbishop or bishop within this realm, or in any other of the king’s dominions, nor shall send nor procure there for any manner of bulls, breves, palls, or other things requisite for an archbishop or bishop, nor shall pay any sums of money for annates, first fruits, nor otherwise, for expedition of any such bulls, breves, or palls; but that by the authority of this act, such presenting, nominating, or commending to the said Bishop of Rome, or to the see of Rome, that such bulls, breves, palls, annates, first fruits, and every other sums of money heretofore limited, accustomed or used to be paid at the see of Rome for procuration or expedition of any such bulls, breves, or palls, or other thing concerning the same, shall utterly cease and no longer be used within this realm, or within any of the king’s dominions, anything contained in the said act aforementioned, or any use, custom, or prescription to the contrary thereof notwithstanding.”

Then comes the mode in which archbishops and bishops are to be appointed, sec. 4:—

“IV. And, furthermore, be it ordained and established by the authority aforesaid, that at every avoidance of every archbishopric or bishopric within this realm or in any other the king’s dominions, the king our sovereign lord, his heirs and successors, may grant to the prior and convent, or the dean and chapter of the cathedral churches or monasteries where the see of such archbishopric or bishopric shall happen to be void, a licence under the great seal, as of old time hath been accustomed, to proceed to the election of an archbishop or bishop of the see so being void, with a letter missive containing the name of the person which they shall elect and choose. By virtue of which licence the said dean and chapter,

\* “Mountague says: that that letter of the king was not an authority, but a signification of the king’s pleasure. Fletcher: there is no question, and that was granted on the other part, that the king can make a bishop without election of the dean and chapter, by which Bale is a good bishop. And the court holds that clear and will not call it in question; for it is the king’s prerogative in that part. Fletcher: then Bale being a lawful bishop, when Mary made Tannery bishop, that was a void act. For the queen was deceived.” Again: “Crook will argue: that Bale was not lawfully made without election, but the judges interrupt him; and Dodderidge says to him that the kings of England had at all times disposed of the bishoprics in their dominions without the Pope, as supreme founders and patrons; as may be seen 10 E. 3. 22 E. 3. 17. E. 3, and custom has given them for their creation the *per annulum et baculum* (by the ring and staff,) and that makes them in our law; but the consecration was always by the clergy, and that continues, according to the Lateran council, in which a canon was made, that no one should receive spiritual dignity by the hands of a lay person. But notwithstanding that canon, Henry II. would not obey the Pope in that point; and Mountague says that he had seen a book wherein it was written that the king used to say, he would rather abdicate his crown than lose that prerogative. Dodd. says that king John was the first that yielded the election of bishops to the Pope. Whose charter see in Matthew of Paris verbatim, but thereupon the king shall issue a *congé d’élire*, (viz.) when a bishop is dead, the dean and chapter having to certify to the king the bishop’s death. And thereupon the king shall issue a *congé d’élire*, and when upon this they have made the election, they are to certify this in Chancery, and then the king confirms him; and when the bishop is thus confirmed by the king, he confers the temporalities without confirmation, if it pleaseth him; and therefore, by the opinion of all the judges, the rule then was, that judgment be confirmed.”

or prior and convent, to whom any such licence and letters missive shall be directed, shall with all speed and celerity, in due form, elect and choose the same person named in the said letters missive to the dignity and office of the archbishopric or bishopric so being void, and none other. And if they do defer or delay their election above twelve days next after such licence or letters missive to them delivered, and for every such default the king's highness, his heirs and successors, at their liberty and pleasure, shall nominate and present, by their letters patent under their great seal, such a person to the said office and dignity so being void as they shall think able and convenient for the same; and that every such nomination and presentment to be made by the king's highness, his heirs and successors, if it be to the office and dignity of a bishop, shall be made to the archbishop and metropolitan of the province where the see of the same bishopric is void, if the see of the said archbishopric be then full, and not void; and if it be void, then to be made to such archbishop or metropolitan within this realm, or in any the king's dominions, as shall please the king's highness, his heirs and successors; and if any such nomination or presentment shall happen to be made for default of such election to the dignity or office of any archbishop, then the king's highness, his heirs and successors, by his letters patent under his great seal, shall nominate and present such person as they will dispose to have the said office and dignity of archbishop, being void, to one such archbishop and two such bishops, or else to four such bishops within this realm, or in any of the king's dominions, as shall be assigned by our sovereign lord, his heirs or successors.

" V. And be it enacted by the authority aforesaid, that whensoever any such presentment or nomination shall be made by the king's highness, his heirs or successors, by virtue and authority of this act, and according to the tenor of the same; that then every archbishop and bishop, to whose hands any such presentment and nomination shall be directed, shall with all speed and celerity invest and consecrate the person nominated and presented by the king's highness, his heirs and successors, to the office and dignity that such person shall be presented unto, and give and use to him a pall, and all other benedictions, ceremonies, and things requisite for the same, without suing, procuring, or obtaining hereafter any bulls or other things at the see of Rome, for any such office or dignity in any behalf. And if the said dean and chapter, or prior and convent, after such licence and letters missive to them directed, within the said twelve days, do elect and choose the said person mentioned in the said letters missive to them directed, according to the request of the king's highness, his heirs and successors, thereof to be made by the said letters missive in that behalf, then their election shall stand and be good and effectual to all intents; and that the person so elected, after certification made of the same election, under the common and covent seal of the electors, to the king's highness, his heirs or successors, shall be reputed and taken by the name of the lord elected of the said dignity and office that he shall be elected unto; and then making such oath and fealty only to the king's majesty, his heirs and successors, as shall be appointed for the same, the king's highness, by his letters patent, under his great seal, shall signify the said election, if it be to the dignity of a bishop, to the archbishop and metropolitan of the province where the see of the said bishopric was void, if the see of the said archbishopric be full and not void; and if it be void, then to any other archbishop within this realm, or in any other the king's dominions, requiring and commanding such archbishop to whom any such signification shall be made to confirm the said election, and to invest and consecrate the said person so elected to the office and dignity that he is elected unto, and to give and use to him all such benedictions, ceremonies, and other things requisite for the same, without any suing, procuring, or obtaining any bulls, letters, or other things from the see of Rome for the same in any behalf. And if the person be elected to the office and dignity of an archbishop, according to the tenor of this act, then, after such election certified to the king's highness in form aforesaid, the same person so elected to the office and dignity of an archbishop shall be reputed and taken lord elect to the said office and dignity of an archbishop, whereunto he shall be so elected; and then after he hath made such oath and fealty only to the king's majesty, his heirs and successors, as shall be limited for the same, the king's highness, by his letters patent under his great seal, shall signify the said election to one archbishop and two other bishops, or else to four bishops within this realm, or within any other of the king's dominions, to be assigned by the king's highness, his heirs or successors, requiring and commanding the said archbishops and bishops, with all speed and celerity, to confirm the said election, and to invest and consecrate the said person so elected to the office and dignity that he is elected unto, and to give and use to him such pall, benedictions, ceremonies, and all other things requisite for the same, without suing, procuring, or obtaining any bulls, briefs, or other things at the said see of Rome, or by the authority thereof in any behalf.

" VI. And be it further enacted by the authority aforesaid, that every person and persons being hereafter chosen, elected, nominated, presented invested, and consecrated to the dignity or office of any archbishop or bishop within this realm, or within any other of the king's dominions, according to the form and effect of this present act, and using such temporalities out of the king's hands, his heirs or successors, as hath been usual

and making a corporal oath to the king's highness, and to none other, in form as is aforesaid rehearsed, shall and may from henceforth be thronized or installed, as the case shall require, and shall have and take their only restitution out of the king's hands of all the possessions and profits, spiritual and temporal, belonging to the said archbishopric or bishopric whereunto they shall be so elected or presented, and shall be obeyed in all manner of things, according to the name, title, degree, and dignity that they shall be so chosen or presented unto, and do and execute in every thing and things touching the same as any archbishop or bishop of this realm, without offending the prerogative royal of the crown and the laws and customs of this realm, might at any time theretofore do.

"VII. And be it further enacted by the authority aforesaid, that if the prior and convent of any monastery, or dean and chapter of any cathedral church, where the see of an archbishop or bishop is within any of the king's dominions, after such licence as is aforesaid rehearsed shall be delivered to them, proceed not to election, and signify the same, according to the tenor of this act, within the space of twenty days next after such licence shall come to their hands; or else, if any archbishop or bishop within any of the king's dominions, after any such election, nomination, or presentation shall be signified unto them by the king's letters patent, shall refuse, and do not confirm, invest, and consecrate with all due circumstance as is aforesaid, every such person as shall be so elected, nominated, or presented, and to them signified as is above-mentioned, within twenty days next after the king's letters patent of such signification or presentation shall come to their hands; or else, if any of them, or any other person or persons, admit, maintain, allow, obey, do, or execute any censures, excommunications, interdictions, inhibitions, or any other process or act, of what nature, name, or quality soever it be, to the contrary or let of due execution of this act, that then every prior or particular person of his convent, and every dean and particular person of the chapter, and every archbishop and bishop, and all other persons so offending and doing contrary to this act, or any part thereof, and their aiders, counsellors, and abettors, shall run into the dangers, pains, and penalties of the estatute of the provision and *præmunire* made in the 25th year of the reign of King Edward III., and in the 16th year of King Richard II."

The practice, therefore, is this: the dean and chapter certify the vacancy to the Crown; the Crown sends a *congé d'élire*, accompanied with a letter missive to the dean and chapter, containing the name of the person whom they are to choose to be their bishop. They can only elect the person named in that letter, and if they do not make the election within twelve days, the Crown names by letters patent. If that is done, the person so named goes to the archbishop for investiture and consecration; but if he is elected by the dean and chapter, then the archbishop receives a direction to confirm him, and if that is not done accordingly, certain heavy penalties immediately follow. There is scarcely a passage in this statute which does not show that the whole is a matter of form, which has possibly been kept up to gratify the sensitive recollections of those who connect our protestant church with that of Rome; but that, after all, it is a mere matter of form, and nothing else, Gibson, Tit. v., c. 1, p. 127, says,—

"The election, from beginning to end, proceeds seemingly upon the *congé d'élire*, without any appearance of restraint from the letters missive, and in the same manner as if there were no such restraint, and the only circumstance remarkable in it is the solemn declaring of the person elected to the clergy and people assembled in the church, wherein we see the *footsteps* of the more ancient way of electing, and of the part which they had in the election."

Therefore, in this matter, the Crown, as the head of the church, has consented to keep up, not the election itself, but "seemingly" only—being still of supreme authority in such matters. And thus it is that the passages from Lancelottus and Ferraris can have no application, for now there can be no *co-electus*, since the Crown names the only person who can be elected; nor, for the same reason, can there be any *contradictor*, for both these branches of the old election are now destroyed. The Crown is made the sole judge of the fitness of the person to be elected, and no one has authority to set aside the nomination of the Crown, and to *nominate any other individual*. The dean and chapter are to elect the



person nominated with all speed and celerity, and in due form ; and on their failing to do so within twelve days, the Crown is to nominate the bishop, who is to be presented to the archbishop, who is to invest and consecrate him without confirmation. I apprehend, therefore, that what is called election is a mere nominal matter ; or, as Gibson says, it is “ seemingly ” only an election, for the Crown being, by its prerogative, at the head of the church, is in the situation in which the Pope formerly was, and is the judge of the fitness of the individual ; and if so, then having directed a person to be elected, any inquiry by others into his fitness is impossible.

But after that comes the 5th section of the statute, which declares that the election having taken place, the archbishop shall proceed with all “ speed and celerity.” That expression is most important, to show that there was no intention of having articles exhibited against the person so elected, but that he was to be at once invested and consecrated. It is curious, that in this section again, the word “ confirm ” is never employed, but the direction is “ to give and use to him pall, and all other benedictions, ceremonies, and things requisite for the same, without suing, or procuring, or obtaining hereafter any bulls or other things at the see of Rome.” It will be said on the other side, that these last words import confirmation : that is not so, they apply to investiture and consecration. In that there is no right nor opportunity for discussion. None existed as against the Pope’s nomination under the old practice, none is given as against the King’s by the statute. But it may be said, that the archbishop shall inquire into the process of the election. That is not so, for the act says “ that the election shall stand good to all intents and purposes.” No such inquiry can therefore take place ; for the Crown, having pronounced its judgment as to the fitness of the individual, by nominating him to the bishopric, no inquiry can be made into the *processum electionis*, which, in ancient times, signified an inquiry into the qualification of the electors and the elected. The old jurists say that there may be inquiry ; the act says there may not. Assuming that you were to make this rule absolute, and to direct the archbishop and vicar-general to inquire into the doctrines of Dr. Hampden ; that there are any matters which persons may allege, from their visionary notions or from party feelings, on the subject, and that there was any person found to state that Dr. Hampden was disqualified, the question to be asked is—what would be the result ? Can the election be set aside ? It cannot. The election is by statute, and it is declared to stand good to all intents and purposes. If it is said that any command of you is to relieve a dissenting archbishop from the penalties of making an inquiry, and thereby delaying the completion of the election, what will be the result ? At the utmost it will be this—there can be no bishop of the diocese, for the election under the statute cannot be set aside, and the see is not vacant. This alone shows, that whatever *might have* been the form pursued, and whatever the requisites of a canonical election, where the archbishop could examine into the *processum electionis*, he could not do that which is now of the essence of such an inquiry, and if the Sovereign is satisfied that the election has been perfect, even though that election should have been made by persons not qualified, such as persons not members of the chapter, if her Majesty puts upon it the imprimatur of her authority, the act of Parliament declares, that it is at once good to all intents and purposes, and no authority but that of another act of Parliament can get rid of it. The election is good, and the person elected is to be taken and reputed

lord-elect, and Dr. Hampden is, by this act, declared to be taken and reputed to be Bishop of Hereford. The honour of the Crown is then satisfied. The bishop shall afterwards take the oath of fealty, and the Crown requires the archbishop to confirm—what? not the validity of the election, but the fact of the election; not the qualification of the person, but the election of that person whom the Crown has itself declared to be qualified. [The learned counsel here went at considerable length into a review of different clauses and expressions of the statute in affirmance of the propositions thus advanced.] The confirmation is but a portion of the election, and the election itself is but a shadow, that shadow itself casting no other on account of its own complete want of reality and substance. What, then, are the penal clauses of the statute? It is said that if, on the *cong  d' lire*, the dean and chapter had elected some person else, that would not have been a violation of the statute, and that the refusal to proceed to the election would have been the only ground for a *pr munire*. That is an error. There must be an election according to the tenor of the act; or, in other words, an election of the person named in the letter missive; or if the archbishop, after notice, should not confirm the elected person with all due ceremonies, the offender will be liable to a *pr munire*. I apprehend that that section of the act shows, that either these matters were not contemplated at all, or were so by the desire of persons to keep up a mere form that should show our connection with the ancient church. For otherwise, if an investigation could take place, it must last longer than twenty days, which is expressly forbidden by the statute. The mere imposition of the penalty, frightful as it is, shows that it was intended that the confirmation should be a merely nominal act, for it could not have been intended to allow the archbishop to do that which it was impossible for him to do within the time required by the statute, that statute at the same moment affixing so serious a penalty on his exceeding that time. There are besides other legislative declarations that these forms are only matters of form. The statute 1 Edward VI. c. 2, entitled “An Act for the Electing of Bishops,” which is not printed in the statutes at large, but is printed in Burn’s Ecclesiastical Law, (vol. i. p. 202), and in Gibson’s Codex, that statute says,—

“Forasmuch as the election of archbishops and bishops by the deans and chapters be as well to the long delay as to the great cost and charges of such persons as the king giveth every archbishopric or bishopric unto. And whereas the said elections be in very deed no elections, but only by a writ of *cong  d' lire* have colours, shadows, or pretences of elections, serving nevertheless to no purpose, and seeming also derogatory and prejudicial to the king’s prerogative royal, to whom wholly appertaineth the collation and gift of all archbishoprics and bishoprics and suffragan bishops within his dominions; it is enacted that from henceforth no *cong  d' lire* be granted, nor election by the dean and chapter be made, but that the king by his letters patents may collate.”

But it may be said, that the words used there are “such election,” and that they may refer to the search under the old law for the proof of the validity of the votes given at the election. But that cannot be so now, for now there is no question as to the qualification of the electors or elected, which can be examined into after election. The Crown decides both matters by its *cong  d' lire* and letter missive. This statute of Edward VI. was repealed by the 2 Ph. and Mary, c. 8, and the only instance of a canonical election, between that time and the revival of the statute, was that of Cardinal Pole, who, with a delicate diffidence, would not take upon him his high office till the morning of the execution of his predecessor. But in order that this matter of declaring that a *cong  d' lire* was a mere form should not appear to be passed too loosely, the

provisions of this English statute were repeated in a statute of the Parliament of Ireland in the time of Elizabeth. The 2 Eliz. c. 4, Irish statute, is in these terms:—

“Forasmuch as the elections of the archbishops and bishops by deans and chapters within the Queen’s Majesty’s realm of Ireland at this present time, as well to the long delay as to the great costs and charges of such persons as the Queen’s Majesty’s giveth any archbishoprick or bishoprick unto; and whereas the said election is in verie deed no election, but only a writ of *congé d’élire*, mere colours, shadowes, or pretences of election, serving nevertheless to no purpose, and being also derogatorie and prejudiciall to the Queen’s prerogative royall, to whom only appertaineth the collation and gift of all archbishopricks and bishopricks and suffragan bishops within this her highness realm; for a due reformation hereof be it therefore enacted by the Queen’s highness, with the assent of the lords spirituall and temporall, and the commons in this present Parliament assembled, and by the authority of the same, that from henceforth no *congé d’élire* be granted on election of any archbishop or bishop by dean and chapter made; but that the Queen’s Majestie, her heirs and successours, may, by their letters patents under the great seale of England, or of this realm, or the lord deputy or other gouvernor or gouvernors of this realm for the time being, having instructions, letters missive, or other warrant, signed by the Queen’s Majestie, her heyres and successours, for the same purpose, may by letters patents to be made by his or their warrant under the great seale of this realm, at all times when any archbishoprick or bishoprick be void, confer the same to any person whom the Queen her lieyres or successours shall think meete; the which collations, or by letters patents made in manner aforesaid, and delivered to the person whom the Queen, her heyres or successours, shall confer the same archbishoprick or bishoprick, or to his sufficient proctor and attorney, shall stand to all intents, constructions, and purposes to as much and the same effect as though *congé d’élire* had been given, the election duly made, and the same confirmed; and that upon that, the said person to whom the said archbishoprick, bishoprick, or suffraganship, is so conferred, collated, or given, may be consecrated and enter on his living, or *ouster le maine*, and doe other things, as well as if all the ceremonies and elections had been done and made.”

From that time there has been no confirmation in Ireland, and the bishoprics have been, and are to this day, *donative* by letters patent. The legislature has, therefore, declared the meaning of the act, and has pronounced a *congé d’élire* to be a mere shadow and pretence, derogatory to the King’s prerogative. And such is no doubt its real character, though the use of it is a mere form continued in this country. The learned notes of Messrs. Butler and Hargrave on Coke upon Littleton are to the same effect. At page 134 a, note 4 says:—

“But notwithstanding the repeal of the statute 1 Ed. VI. the election of Bishops is, as that statute emphatically expresses it, mere shadow, colour, and pretence; for by the 25th of Henry VIII., if they do not elect the person recommended in the King’s letter missive, which accompanies his *congé d’élire*, they incur the penalties of a *præmunire* (see sec. 7). There is no such statute now in force with respect to deaneries, which we have observed in a former note; and yet the election to the old deaneries is in practice controlled by the King’s letter missive as much as the election to bishoprics. (See 95 a, note 4.) It is probable, therefore, that the letter missive is of considerably greater antiquity as to both than the statute of Henry VIII.”

And in their notes on the title Frankalmoigne, (95 a,) they fully explain and support this opinion as to the ancient deaneries. I may, therefore, assert that the Crown possesses the absolute power of appointment to the vacant sees. Then how is it that this court, a court of common law, should go blindfold into the old canon law of this country, and by a *mandamus* attempt to restore validity to that which is a mere form? Ayliffe, in his Parergon, page 127, talks in the same way of the election of bishops, for though, when speaking of what are canonical elections, he speaks of the mode of citing, when treating of bishops’ elections he says nothing of the sort:—

“Within twelve days after the receipt of this licence or *congé d’élire*, they (the dean and chapter) are to proceed to the election, which is done after this manner, viz., the dean and chapter having made their election, must certify it under their common seal to the King — to the archbishop of the province and to the bishop elected; and then the King gives

royal assent, under the great seal, directed to the archbishop, commanding him to confirm and consecrate the bishop thus elected. And the archbishop subscribes it, viz., *fiat confirmatio*, and grants a commission to the vicar-general to perform the acts requisite to that purpose."

"Thereupon the vicar-general issues forth a citation to summon all persons who oppose this election to appear, &c., which citation is affixed by an officer of the Arches on the door of Bow Church, and he makes three proclamations for the opposers, &c., to appear; after the same officer certifies what he has done to the vicar-general; and no person appearing, &c., at the time and place appointed, &c., the proctor for the dean and chapter exhibits the royal assent, and the archbishop's commission directed to his vicar-general, which are both read and accepted by him. Afterwards the proctor exhibits his proxy from the dean and chapter, and presents the new elected bishop to the vicar-general, returns the citation, and desires that three proclamations may be made for the opposers to appear; which being done, and none appearing, he desires that they may proceed to confirmation in *pænam contumaciæ*; and this is subscribed by the vicar-general in a schedule, and decreed by him accordingly. Then the proctor exhibits a summary petition, setting forth the whole process of election, in which it is desired that a certain time may be assigned him to prove it, and this is likewise decreed by the vicar-general, and that certificate which he returned to the vicar-general, and of the affixing the citation on the door of Bow Church, and desires a time may be appointed for the final sentence, which is also decreed. Then three proclamations are made again for the opposers to appear, but none coming they are pronounced contumacious; and 'tis then decreed to proceed to sentence; and this is in another schedule read and subscribed by the vicar-general."

In the same way, Gibson, in his *Codex*, page 125, points out in a note his views of the case. His note is as follows:—

"A Letter Missive.—This is wholly new, and the language of it being thus, 'We have been pleased by these our letters patent to name, and recommend him unto you, to be elected and chosen,' the only choice the electors have, under this restraint is, whether they will obey the King, or incur a *præmunire*."

And, again, page 125, he says in a note:—

"In due form—The election, from beginning to end, proceeds, seemingly, upon the *congé d'élire*, without any appearance of restraint from the letters missive, and in the same manner as if there were no restraint; and the only circumstance remarkable in it is the solemn declaring the person elected to the clergy and people assembled in the Church, wherein we see the footsteps of the more ancient way of electing, and of the part which they had in the election."

Here, he says, the election proceeds seemingly upon the *congé d'élire*, and in the same manner as if there were no restraint; wherein we see the footsteps of the more ancient way of electing. He then proceeds to set out the form of Confirmation in the precise words which I have cited from Lancelottus. He afterwards speaks of the "Co-electus," and says,—

"Vocationem autem hujusmodi nominatim, ubi est co-electus, vel apparet oppositor, alias generaliter in ecclesiâ in quâ electio facta est, ut si qui sint qui se velint opponere, compareant assignato peremptorio termino competenti, faciendam esse consemus. Quæ, etiamsi electio in concordia celebrata fuerit, volumus observari." \*

'There can now be nothing of that sort, and therefore this description of his is wholly inapplicable to the present time. But then the supposed contumacy is referred to, and it is said,

"(8.) The second schedule. Before sentence a second præconization of the opposers, if any be, is made at the fore door of the Church, and (none appearing) they are declared contumacious by a second schedule."

This is done by virtue of the nine articles cited in Burn, but they all conclude with a petition that the party may be confirmed, and that the decree may proceed to assign a term "ad statim" for the completion of

\* "We consider that a citation of this kind is to be made by name, when there is a co-elect or an opposer appears, otherwise generally in the church in which the election took place, that if there are any who wish to oppose, they must appear in an assigned, peremptory and competent term. Which things we wish to be observed, although the election may have been performed in unanimity."

the confirmation. But does the archbishop enter on evidence? Nothing of the kind, "for proof which exhibits" what?—the documents already referred to. They are produced as conclusive evidence that everything has been rightly done, and thus concludes the statement of the opposition. The matters of form show the absurdity of the request for the *oppositores*.

There is one curious instance which it may be as well to refer to; that is the case of Archbishop Parker, as related in Strype's "Life of Parker," and in Burnet. He had the greatest objection to fill the office of Archbishop, as successor to Pole, but he was elected under a *congé d'élire*. Things were then in a state of transition from the ancient to the modern form. There was a practice of delegating the authority of the chapter to an individual. That is not so now. The chapter allowed in that case the dean to elect. The dean did not elect himself, he elected Parker, and the letters patent confirmed him by name. At that time there were Roman Catholics who, it was hoped, would conform, but they would not, and the election being under no form prescribed by any statute, but only in virtue of the royal prerogative, questions sometimes arose, but from them little can be learned, and certainly nothing from the statements of persons of biassed opinions in matters where rules of law were little attended to in the discussion. There is one case quoted from Burn's Ecclesiastical Law, which is deserving of some observations. It is that which he cites from Collier's Ecclesiastical History, vol. ii. p. 745, fol. It is in these terms:—

"Soon after the recess of the Parliament, Bishop Laud was translated from Bath and Wells to London, and Mountague promoted to the See of Chichester. Before he was consecrated an unexpected rub was thrown in the way. At the confirmation of bishops in the Court of Arches at Bow Church in Cheapside, there is public notice given, that if any persons can object either against the party elected, or the legality of the election, they are to appear and offer their exceptions at the day prefixed. This intimation being given, one Jones, a bookseller, attended with the mob, appearing at the confirmation, excepted against Mountague as a person unqualified for the episcopal dignity. And, to be somewhat particular, he charged him with popery, Arminianism, and other heterodoxies, for which his books had been censured in the former Parliament. But Dr. Rives, who then officiated for Brent, the vicar-general, disappointed this challenge; for Jones had made some material omission in the manner, and not offered his objections in form of law. Particularly, the objections were neither given in writing, nor signed by an advocate, nor presented by any proctor of the Court. Upon the failure of these circumstances the confirmation went on. The Parliament, not at first apprized in point of form, were dissatisfied with the conduct of the vicar-general, and inquired into the conduct of Dr. Rives on that occasion."

Dr. Burn then adds the following note:—

"Upon which it hath been observed that Dr. Rives, a most eminent civilian and canonist, admitted that the opposition was good and valid, had it been legally offered; and that the Parliament of that time proceeded upon the same opinion."

I do not dispute the high authority of Rives, whose name is mentioned in this statement, but he was not the vicar-general, he was only the deputy. Mountague was a person greatly obnoxious to the Parliament, which voted him to be all sorts of things, and by the Parliament party two persons, Jones and another, were deputed to make objections to his confirmation. In fact, it was a struggle between the Parliament and the Crown. It was clear that, as here stated, Rives was wrong, for a person may make an objection without a proctor, and it is wrong to say that the opposition would have been good had it been legally offered; and on searching the Parliamentary history nothing of the sort seems to have occurred. But if he had said that it occurred, it would merely have amounted to this, that he made out his excuse to the Parliament as well as he could. That, however, to be taken as matter of authority.



But I may now mention an authority which every one who knows anything of these matters knows to be highly valuable. Sir James Marriott, Master of Trinity Hall, Cambridge, was king's advocate in 1764, and afterwards Judge of the Admiralty Court, and won a European reputation. I have before me a manuscript book of practice, and collection of cases by him, drawn with the greatest care, and after having access to the books and manuscripts of Trinity Hall library. In that book he says confirmation must be made within 20 days, otherwise a *præmunire* is incurred. "Therefore there needs no citation of opposers, nor are they to be heard if they offer;" and he cites the statute, and refers to a manuscript, and to "Eden's Practical Observations."

The only other case to which I shall now allude is that of *Evans and Kiffin v. Ascuthe*, in *Palmer's Reports*, 457, and likewise reported in *Sir W. Jones, Noy, and Latch*, which has been cited on the other side. There the bishop elect signed a lease of lands between the time of the *congé d'élire* and that of the confirmation, and the question was, whether the deed was inoperative. But in that case there had been no election, and even in that case the passage cited from *Whitelock* is not a judicial declaration of opinion, but is a mere historical illustration used in his argument. If it had been in the form of a judicial declaration, it would have been a mere *obiter dictum*, for the right of persons to oppose a confirmation was not the question before the court. But it was not even that, and it is wholly worthless as an authority. The cases are collected in 3 *Salkeld*, but they are not decisions in point on this subject. It is enough for me to say, that the Act of Parliament declares how bishops shall be made, and that it does not require confirmation of them. That form is then mere form and not substance. There are many cases analogous to it. The form the most solemn in this country is that challenge to the whole world in the defence of the dignity and rights of the Sovereign. If the gauntlet thus thrown down was accepted, would your lordships grant a *mandamus* to compel the performance of it? Again, a judge comes to the bench through a form gone through in the Court of Common Pleas. But suppose that form not observed in a particular case, as the Crown is the judge of the fitness of a person for such an appointment, would the absence of the form defeat his title to the office? This form may have been preserved when protesting against the errors of the Church of Rome, in order to preserve the memory of our former connexion with that Church, from whom we trace our descent, and the evidence of our apostolical succession. It is not for me to show why this form has been preserved, if I have satisfied the Court, as I trust I have, that on the construction of the statute that form is needless and vain.

I now come to another point. If the court of the archbishop is a court of competent jurisdiction, then this court will not grant a *mandamus* to it, though it may grant a prohibition to restrain the exercise of that jurisdiction. As to that there is the qualification, where the matter under discussion involves the temporal rights of any party. But where that matter is peculiarly of ecclesiastical cognizance, this court has no more right to interfere by *mandamus* to the court of the archbishop than to the court of the Vice-Chancellor of England.

**LORD DENMAN:** The ground on which it was stated by Sir F. Kelly that he moved for a *mandamus*, and on which this court granted the rule, was that the confirmation was altogether void without the hearing, and that the court of the archbishop, though acting within its jurisdiction, had left the matter incomplete. If the archbishop refused to proceed to

confirm, should you say, on the part of the Crown, that the *mandamus* would or not lie?

The ATTORNEY-GENERAL: That it would not. I am not here to argue that question—but the statute has pointed out the remedy, a *præmunire*.

Mr. Justice COLERIDGE: That would punish one party, but not be a remedy for the other.

The ATTORNEY-GENERAL: I repeat, that I am not here to argue that question; but assuming, as I do, that this is a mere ministerial act, I say that a *mandamus* will not lie.

Lord DENMAN: Will not such an application lie if a judge should refuse to undertake judicial business?

The ATTORNEY-GENERAL: Not unless some temporal rights are thereby affected. If I am right in my view, that it is merely a ministerial act, there is an end of the point.

Mr. Justice COLERIDGE: The case put was an entire refusal to confirm.

The ATTORNEY-GENERAL: I know—and it is said that the want of confirmation makes the election void. But where is the authority for that? The only authority is that of Ferraris, which is none at all here, and after the statute, and even his authority being found on the 3rd Council of Lateran, which has always been rejected in this country. I repeat, that if the act is a merely ministerial act, there might be a *mandamus*, but not if it is a judicial act, excepting only where the temporal rights of the applicants are affected. Thus there are instances in Lord Raymond's Reports, where the court has granted a *mandamus* to issue a probate, but that was merely to secure the temporal rights of an interested party. But here is another distinction. It might lie here at the suit of the Crown or the bishop. But who are the parties now seeking for it? They have no temporal rights whatever in this matter; the court will understand this distinction. It is a known rule that no *mandamus* will lie from this court for matters not of a temporal nature. In the King v. St. Peter's, Thetford, in the Term Reports, the court refused to grant a *mandamus* for a church rate. The bishop or the Crown might come here for a *mandamus*; but who are these parties?—they cannot come for a *mandamus* on a mere question of doctrine and not of temporal right.

Mr. Justice COLERIDGE: They are all incumbents in this diocese, so the appointment to this church might affect their temporal rights.

The ATTORNEY-GENERAL: There is no instance in the law of a *mandamus* to meet a possible contingency, a *mandamus quia timet*. The rule is, that if a court is acting within its jurisdiction, right or wrong, the remedy is by appeal; if it exceeds its jurisdiction, the remedy is prohibition. If on a question of next of kin, the Ecclesiastical Court had decided that A B was not a party to be heard; but that C D was, this court would not grant a *mandamus* to compel the hearing of A B. If it did, it would usurp the functions of the proper Court of Appeal, the Privy Council.

Mr. Justice COLERIDGE: Can a person who is not a party to a record appeal against a judgment in the Ecclesiastical Court?

The ATTORNEY-GENERAL: Yes; in the Ecclesiastical Courts, the Admiralty Courts, and the Court of Chancery. Now, suppose a case of prize. Would this court try a question of prize law—of the very terms of which the court knows nothing? Take again the case of Ex-commissioners. Suppose it was said that goods were improperly

demned, would this court try that question on *mandamus*? A question of escheat is another instance. In that case this court would not interfere with the proper jurisdiction. These matters are conclusive. Suppose the Vice-Chancellor should determine in the case lately argued, that certain parties should not be heard in a railway case, this court would not interfere on *mandamus*. The parties aggrieved must go before the Lord Chancellor on appeal. But if these persons did not constitute a court, still the remedy was not by *mandamus*. The law did not intend that this course should be adopted here. Here the Crown stands in the place of the Pope, and as the matters of qualification—learning, manners, piety, literature—were deemed to be finally settled by the Pope when he made a nomination, so now they are finally settled by the Crown when it nominates to a bishopric. And as to doctrine, the court below has no power to judge of it; yet that is the objection pointed out in the affidavits. Where is the tribunal to try it? Not that of these commissioners. At most the objection *in personam* must be taken with reference to the competency of the court, and here there is no power to try, nor any appeal against a determination. The court could not have tried it if the offence had been one of a temporal nature, nor could they have entered into a question of bad morals or irregular life at school or college. The objection *ad personam* was one which could not fall under the decision of the court—there was no appeal, no power of judgment; and the whole objection, as to matters of doctrine, falling outside their jurisdiction, was provided for in this particular case by the legislature in the Church Discipline Act, 3 and 4 Vic. c. 86, sec. 7, 8, wherein it was especially enacted that the proceedings on these grounds were to be instituted by letters of request to the court of appeal of the bishop, who was the proper person to move the prosecution; articles were to be exhibited against the offender; and the 23d section of the act provided.—

“That no criminal suit or proceeding against a clerk in holy orders of the United Church of England and Ireland, for any offence against the laws ecclesiastical, shall be instituted in any ecclesiastical court otherwise than is hereinbefore enacted or provided.”

Mr. Justice COLERIDGE: Is there no difference, Mr. Attorney-General, between trying an offence for the purpose of punishment, and for the purpose of ascertaining the fitness of a person for a certain office? The court could not try a criminal offence, but you put your argument on the fitness of the court to inquire into the validity of the proceedings.

The ATTORNEY-GENERAL said he thought not, for if parties came to the court with a charge of a most heinous nature and asked for inquiry, to whom were the court to look? In the first place, the bishop-elect was not there—it was the proctor of the dean and chapter who was the promovent in the whole matter; and secondly, the court was not of such a nature as had power to examine witnesses as to the truth of the charge, and was therefore unable to give the accused an opportunity of a refutation to a charge which might be circulated by malice, and was thus disarmed of defence through the impotence of the court. Was it to be contended that the archbishop should proceed, on the foolish inconsiderate tattle of every person who blindly took up a cry against a man, because it was easier to do so than to investigate the grounds for it, to commence proceedings and institute inquiry? The matter reminded him of the well-known trial of one Faithful, which might be familiar to them all. “And, first, says Blindman, the foreman, I see plainly this man is a heretic!” How was the matter to be tried? The contest lay between the parties who challenged the election and the dean and chapter. All



archbishop had to do was to take the oath on the confirmation of the bishop elect, and the fact that the applicants proceeded by articles in this case was alone sufficient ground to resist the application. But assuming that he had been wrong in every objection he had made hitherto, they came to the main difficulty of the question—What was to be done by the court? The bishop was already confirmed—he stood before the court as an elected and confirmed prelate of the church, and the affidavits before them made them acquainted with the proceedings which had taken place thereupon, and with the judgment solemnly investing Dr. Hampden with the see, so that he was now as much Bishop of Hereford as ever man was, and if they went on inquiring from this to the end of time he could not be deprived of his prelacy. The proceedings took place under a writ *de melius inquirendo*, in the case of a coroner or escheator, commenced by bringing up the judgment from below that the court might at once quash it, and nothing could be done unless that were observed. No new judgment could be tacked on to the former finding, but the whole must be rendered null from the beginning before the court could interfere further than to quash it. Suppose the charges now brought forward were established against his client, that an inquiry took place, and that the archbishop was satisfied Dr. Hampden had committed the offences imputed to him, what was next to be done? Was the judgment to be set aside? No. The archbishop could not do so. He had no authority. He was *functus officio*, and had nothing further to do in the matter. The canon law allowed no inquiry of such a nature to take place between confirmation and consecration, and the election was made binding to all intents and purposes. He supposed the court would not be anxious to interfere with the prerogative of the Crown, and do a serious injury to an individual, unless they were satisfied of some valid and useful result from so doing. But for the respect he owed the court he would have commenced his address by objecting, on technical grounds, to the whole of the motion before them; and but for the solemnity and importance of the case, he was sure there would have been a demand for precedents for the application, when it was first brought before them. The industry of his learned friends on the other side, the anxious desire of himself and of his learned friends beside him, had alike failed to discover a shadow of a precedent for the motion; and it must be taken for granted, therefore, that it was without precedent, and opened new ground on a matter of great importance. The broad principle on which that court was accustomed to act was, that a *mandamus* would not lie unless the matter for it involved a temporal injury or deprivation. The leading case on this subject was the *King v. St. Peter's, Thetford* (vol. v. Term Reports, p. 364), which was an application for a *mandamus* to compel the payment of church-rates; but the court refused to interfere, on the ground that it was an ecclesiastical matter, of which they had no cognizance. In the *King v. St. Margaret's, Lancaster*, however (8 Adolph. and Ellis), they interfered and issued a *mandamus*, because a local act provided there should be a church-rate made, which reduced the question to one of temporal duty, and brought it under the supervision of the court. That very exception formed the rule, as it showed the court regarded temporal considerations alone in issuing the high writ of *mandamus*. Here, however, was a question in no respect temporal, but purely and simply one relating to the canon law.

His learned friend (Sir F. Kelly) said the canon law was part of the common law of the land. So it was, with this restriction, and in the

sense—that its exercise was to be restrained to the courts which were instituted to administer it. As far as the Court of Queen's Bench was concerned, the remark was not true; while it would hold with respect to the ecclesiastical courts. Such as in the old court, the viscount sat along with the bishop in their court jointly, the one confining himself to the matters that belonged to his province as a temporal, the other administering the law as a spiritual judge. But in the Court of Queen's Bench the canon law was as much foreign law, as much required proof and interpretation by affidavit and evidence, as the law of another country. If they were called on to try a question involving the rights of priests in matters purely ecclesiastical, such as jactitation before marriage, &c., would not the judge call Dr. Addams or Dr. Bayford before him, to swear what was the canon law on the point at issue? It was in matter and form alien to the court, and beyond their jurisdiction, and with respect he said it, they could not be competent to judge what was the true meaning of it or of the writings of the priests. His learned friend had assimilated the court to a court of magistrates; but there was this distinction, that from the court of magistrates there was no appeal as a matter of right. If an order were brought up by *certiorari*, the order and nothing else appeared, and if the magistrate chose to state the case as he thought fit, he could do so in sending up that order. Would their lordships proceed against this court in a way which they would not adopt towards the body immediately under their own jurisdiction and of their own court? The penalty affixed to the refusal of the archbishop to obey the provisions of the act was most decisive—he was exposed to all the consequences of a *præmunire*. It was one of the first things learned by every student of the law, that the Court of Queen's Bench would not compel any magistrate to do that which might expose him to an action, and that rule was so fully laid down and examined in Archbold's "Justice of the Peace," that he would content himself with referring to it. But here the archbishop was bound within 20 days after nomination had been signified to him by the King's letters to consecrate the bishop, or he would be subject to the penalties of a *præmunire*, and 6 and 7 Vict., c. 67, sec. 3, which had been passed in order to protect magistrates from the consequences of obeying the orders of that court, would be no protection to the archbishop, and if the rule were made absolute, he would stand exposed to the inflictions of the formidable proceeding he had named by the act of that court, which had no power to shelter him. It would be impossible for the archbishop to obey the order, and proceed to invest within twenty days of the time he had received the notice of presentation. First, an appearance would have to be made; then a day fixed for the hearing; then articles must be exhibited; then an answer was to be put in; next came a replication, which would be followed by the discussion. Dr. Addams and Dr. Bayford would enter into the merits; so with the greatest expedition it would be impossible to conclude the case within the time limited by the statute, and it would consequently be his (the Attorney-General's) painful duty to inform the archbishop that he was subject to the penalties of a *præmunire*, from which he would be without defence or protection.

His learned friends had searched—but, from their silence, he had no doubt their search had been in vain—for any objections made to a bishop at confirmation. It was true such a course had been threatened recently, but without any execution of it; but if his learned friend (Sir F. Kelly) could not point to any application like the present, and if the penalties for refusal to comply with the statute were of a very serious and heavy

nature, he considered these facts were *in limine* objections, which were of very strong effect in influencing the court not to grant the wish of the Queen, in defiance of the prerogative of the Queen. The whole matter was one of practice, not of jurisdiction, and if the court would look to Smyth's case (3 Adolphus and Ellis), they would find the court had decided they would not issue a prohibition to the Committee of the Privy Council on a complaint that they had exceeded their jurisdiction, it not having been shown they had interfered in any matter not of ecclesiastical cognizance; and the judge said that the temporal courts could not take notice of the practice of the ecclesiastical courts, or entertain the question whether in any particular admitted to be of ecclesiastical cognizance the practice had been regular. He feared he had detained the court too long with his argument, but the case was one of great importance, though it did not in his mind admit of much doubt as to its true bearings. If he had, however, failed in impressing that conviction on the court, he would be followed by his learned friends, who would certainly perfect whatever he had been unable to do, and would satisfy their lordships that he was right in arguing that this rule ought not to be granted.

The SOLICITOR-GENERAL followed on the same side. He would be well content to leave the question in its full consideration to stand upon its merits, after the argument of his hon. and learned colleague, in reviewing which he was at a loss to remember any point which had been omitted, or any question of learning which had not been elucidated, in connection with the subject before the court. He hoped, however, he might be permitted to offer a few remarks in defence of a very great principle which was now in jeopardy, and in maintenance of a prerogative of the Crown which he considered first and foremost of any which it possessed. If their lordships were to set their seals to this procedure, and that hereafter any man might stand up to oppose the confirmation of those bishops whom the Crown might nominate, there was no longer any peace for the English Protestant church of this realm. A door was opened for every species of attempt on the prerogative of the Crown in the election of bishops; and as a member of that church he there declared his belief, that not only now, but for all time to come, every such election or appointment would be subject to busy intermeddling or to impertinent inquiry. He could not help feeling the force of the reference to the words of the Book of Common Prayer, made by his learned friend the Attorney-General, with respect to the various desires of men on these questions. Such was the variety of their various humours and affections, that every one who supposed he had interests to preserve or principles to justify would suppose himself called on to attend at the confirmation of every bishop, and insist on his right to be heard in any matter which it might suit him to question, as to the moral life of the bishop, as to his habits and qualities, his doctrine, anything in fact which could be suggested by restlessness, or a feverish and petulant disposition. Why were we to have all these disputes? Was it because the statute of Hen. VIII. had not spoken with plainness and simplicity of language? Why, if those forms were "shadows and shams," should they be afraid of saying so? Not in this act only, but wherever else he met with what he thought a "shadow or a sham," he would call it by its proper name. But here these forms stood, and for 300 years, since the passing of the statute of Henry VIII., no precedent could be found to justify the interference of this court in any application of a similar kind. The very fact of

a silence in the cases was in itself a grave objection to this motion; and nothing had been adduced to supply the want of a precedent but what could only be considered as ridiculous and absurd. Not one authority of quality or weight had been adduced to support a position on which strong authority was required—that the court should disturb the prerogative of the Crown.

In moving for this rule his learned friend (Sir F. Kelly) had relied much on one case which he had put in the van of his battle—Mountague's case—which was, in fact, no precedent at all. He told the court it was of authority, because it happened in times when England was not troubled, so that the judges were not afraid to do their duty; but if there ever was a time when the student of English history could look for trouble and confusion, it was the very year of 1628, when the King had just broken with two parliaments. It was the year of the solemn remonstrance—it was the year of the remonstrance against the petition of right, when some of the best and most gallant men in England took the first steps to stand by what they conceived to be their rights. This was the time that Mountague, who was in disrepute with Parliament, and had been the subject of a resolution by that body as being given to Popery, was to their surprise appointed bishop. The whole story in parliamentary history was as follows:—That Jones, accompanied by one Humphreys, who was afterwards a Parliamentary colonel, went into court to oppose Mountague's nomination, thinking he had just ground to do so on account of the bishop's doctrine, and that Parliament had no doubt given them grounds to suppose such a proceeding would not be adverse to their notions. On referring to a report of this in Burn's Ecclesiastical Law, vol. i. p. 207, a note would be found which did not come from either Collier or Fuller, who was the first that mentioned the case—"Upon which it hath been observed that Dr. Rives, a most eminent civilian and canonist, admitted the opposition was good had it been legally offered, and that the Parliament of that time proceeded on the same opinion." They would, he had no doubt, pay but little regard to the opinion of "the Parliament of that time," but he wished to ask who had observed what was said of Dr. Rives? It had been suggested by Dr. Lushington, in the recent proceedings, that it might not be unreasonable to suppose Dr. Rives had not had strength of mind to speak the truth. It was very probable he was cowed by the Parliament; and if his character were examined into, they would find him a person of whom it might well be said he was not a likely man to stand up against heavy weather. He would show, then, from archbishop Usher—an authority *omni exceptione major*—that Dr. Rives was not a man to be relied on; and on referring to Usher's letter (Paris collection), he found, p. 335, in a communication to Lord Keeper Williams, in 1625, full of the Doctor, in which the Lord Keeper was warned to take care of "the way in which he allowed him to set his fingers in anything that concerned his own particular." He was sorry to speak in this way of Dr. Rives at such a distance of time, but there were friends of his there to speak for him; and as so much weight had been placed on his authority, he thought it right to see if it were equal to bear it. He would next proceed to the case of Parker, the first Protestant archbishop in England, and refer to the history of his consecration.

Mr. Justice COLERIDGE: He was not the first Protestant archbishop, Mr. Solicitor.

The SOLICITOR-GENERAL: He called him the first, in the strict meaning of the words, for some doubts might be entertained of Cranmer

doctrine: he was distracted by a *divisum imperium*—between his duty to his Sovereign and his duty to Rome; but Parker was a man who boldly declared and upheld his principles. This was, as the court knew, the case of the famous Nag's Head consecration, and it was observable that two commissions had been appointed to confirm him. The persons to whom the first was addressed, however, refused to act, because, as Strype suggests, there was no quorum clause under which they could proceed to business, so that no proceedings took place under it at all; and under the second commission there was no opposition, nor anything like it. Parker was not confirmed in person, but by proxy; and Bramhall, bishop of Derry, in his argument in his favour, observes, that of all the solemn forms of the church, confirmation and marriage are the only two that can be performed by proxy. It was of consequence to observe, that though the publication of Godolphin's book on Ecclesiastical Law, of Gibson's Codex, and of Ayliffe's Parergon took place subsequent to the occurrence of this case, not one of them alluded to it, nor was it mentioned in any of the books as a subsisting precedent, and therefore it could not be considered worth any consideration.

Coming to modern history, he was sorry to say a precedent had arisen in the present year in the case of the Bishop of Manchester. Their Lordships would see that if once the spirit of interference got abroad, and that persons thought they could interfere as they pleased at the time of confirmation, there would not be wanting men who thought they did God service in coming forward to object to the nomination of bishops on any whim of their own. Gutteridge, in that case, within a short time after an application had been made against him in that very court, went, with all the malice and bitterness in his power, to endeavour to persuade the official presiding at the confirmation that the bishop was guilty of irregularity of life and conduct. If a person with as much spite, and perhaps more money, had put these articles into proper form, and had applied in the proper way, what answer would have been given to him? Would he have had a right to trial? Would it not be a scandal and disgrace to the church, and a great interference with the rights of the crown, if men like him were permitted to come into every confirmation, and wreak their malice on persons whom the crown thought competent to fill the episcopal office? The confirmation at Bow Church was no authority or precedent.

Proceeding to the next part of the case, he would inquire what interest the movers in this case had to qualify them to come into court and make this application? They were clergymen of the diocese of Hereford, and it was argued that it would be detrimental to them to have a superior appointed whose doctrine was not orthodox. The inconvenience to which they had been exposed, however, even supposing Dr. Hampden's doctrine to be unsound, was of such a sort as that the Church of England for three hundred years back had been content to put up with. The learned gentleman then quoted Hooker, book viii., cap. 7, sec. 3, to show the view taken by that judicious person of the mode of appointment of bishops, wherein he expressed his wish that it had been universally by letters patent.

“That difference, which is between the form of electing bishops at this day with us, and that which was usual in the former ages, riseth from the ground of that right which the kings of this land do claim in furnishing the places where bishops, elected and consecrated, are to reside as bishops. For considering the huge charges which the ancient famous princes of this land have been at, as well in erecting episcopal sees, as also in endowing them with ample possessions; sure of their religious munificence and bounty we can think but to have been most deservedly honoured with those royal prerogatives, of whi



the benefit which groweth out of them in their vacancy, and of advancing alone unto such dignities what persons they judge most fit for the same. A thing over and besides even therefore the more reasonable; for that, as the king most justly hath pre-eminence to make lords temporal which are not such by right of birth, so the like pre-eminence of bestowing where pleaseth him the honour of spiritual nobility also, cannot seem hard, bishops being peers of the realm, and by the law itself so reckoned.

“Now, whether we grant so much unto kings in this respect, or in the former consideration whereupon the laws have annexed it unto the crown, [25 Edward III. c. 6,] it must of necessity being granted, both make void whatsoever interest the people aforetime hath had towards the choice of their own bishop, and also restrain the very act of canonical election usually made by the Dean and Chapter; as with us in such sort it doth, that they neither can proceed to any election till leave be granted [25 Edward III. sec. 3; Statute at large by Ruffhead and Runnington, t. i. 260, 262], nor elect any person [25 Henry VIII. c. 20, sec. 4] but that is named unto them. If they might do the one, it would be in them to defeat the king of his profits; if the other, then were the king's pre-eminences of granting those dignities nothing. And, therefore, were it not for certain canons requiring canonical election to be before consecration, [C. Nullus, Dist. 63. Decret. Gratian. pars i. dist. 62, sec. 3.] I see no cause but that the king's letters patents alone might suffice well enough for that purpose, as by law they do in case those electors should happen not to satisfy the king's pleasure. Their election is now but a matter of form: it is the king's mere grant which placeth, and the bishop's consecration which maketh, bishops.”\*

He (the Solicitor-General) quite agreed in the expression of that wish; but still the practice having been so long continued in its present form, was to be regarded with respect; and if it were wantonly disturbed, the peace of the Church of England would be destroyed for ever. Looking to the statutes which preceded the passing of 25 Henry VIII., c. 20 they would have light thrown on its real objects, and would see that whatever power, supremacy, or privileges the Pope possessed before it was enacted, became the King's as soon as it had been made the law of the land; and that whatever powers or privileges the Pope possessed which were contrary to the spirit of the constitution were rescinded, and were suffered by the king to fall into abeyance and disuse, so that the prerogative of the crown thus obtained would be impeded and hindered if this motion were granted. His learned friend, Sir F. Kelly, had led the court to the times of king John, but he (the Solicitor-General) would be content to commence with the 25th Edward III., passed in 1350, which recited the statute of 1297, Edward I., and referred to the causes for which kings and nobles of the realm had given land to bishops and priests, how the Pope had bestowed such lands on aliens not dwelling in England, and how the country was diminished and destroyed by this practice—thence proceeding to declare that the king Edward III. ordered that for the future all bishops, &c., should, after election, hold their lands in the manner in which the king and his progenitors, and the nobles and their ancestors, the founders of the benefices, had conferred them. Here they had evidence of the crown rising up in behalf of the people against the see of Rome, and of a step towards the maintenance of its own rights against the same power. No statute bearing on the question was passed till 23 Henry VIII. in 1531, to restrain the payment of *annates* to the Pope, to whom the money had been paid for confirmations, and other ecclesiastical purposes; the substance of which would be found in Gibson's Codex, p. 104. It recited that great sums of money had been conveyed out of the realm for first fruits, without which despatch could not be had at Rome, and, forbidding the continuance of the practice, concluded with a kind of threat, inserted by the adviser of the king, who was probably no other than Cranmer—that in event of an excommunication, the church would proceed

\* This quotation is omitted in several editions of Hooker. It will be found in the one edited by the Rev. John Keble, vol. iii. p. 421, Oxford, 1841.

with its rites as though it had never been issued. During the force of this statute, Cranmer was made archbishop, and it might be observed as a kind of justification of him, that though the bulls came from Rome, as had been observed, he always protested against them, and that he obeyed the law as it stood at the time. The act which followed did still more to pave the way for the assertion of the rights of the crown, 25 Henry VIII., c. 19, which, reciting the opposition of several canons of the church to the due maintenance of the right of the crown, completely abrogated and rescinded them. The whole scope of the statute evinced a clear intention on the part of the crown to be bound no longer by canon law, and to enact something which should be above it.

MR. JUSTICE ERLE,—The preamble of that act recites the king's supremacy in the most express terms.

The SOLICITOR-GENERAL said that was so, and continued:—Next came the statute of the same year, c. 20, and in looking to the effect of this it would be almost requisite, one would think, according to the arguments they had heard, to see what was the title of confirmation all over the catholic world. The learned gentleman then proceeded to quote a very long extract on this point from Van Espen, whom he described as a learned professor of canon law in the Netherlands, about the beginning of the last century, who treated the subject at full in his "*Jus Ecclesiasticum*," first, *de confirmatione*. Whatever the form, the same power that the Pope exercised previously in respect to and since the 25 Henry VIII. c. 20, it was now to be exercised by the king. He might dispense with it altogether—as appeared from the authority quoted—he might call for it or not—might prescribe different modes for it.

MR. JUSTICE COLERIDGE,—You say the crown stands in the place of the Pope. I understood from the Attorney-General that the Pope might dispense with age, for example. Do you mean to contend that the crown could do the same?

The SOLICITOR-GENERAL should be sorry to say how far the crown would do that which would be unreasonable and improper, nor was he there to argue the question; but he contended that the passing of the act of Henry VIII. gave to the king as complete a discretion in such matters as had been before possessed by the Pope.

The ATTORNEY-GENERAL,—The statute of Henry VI. is peremptory with respect to the limitations of age in bishops.

The SOLICITOR-GENERAL resumed:—His argument was, that whatever the Pope could formerly do for the advancement of the Church of Rome over the world, that the king could now do—*qua* Pope—in this realm of England for the church as by law established. The power was entrusted to the crown in the full confidence that it would be used with honour and integrity. It was remarkable, and should not be overlooked in support of the argument, that confirmation was only a shadow; that in this statute there was a provision, in case this election should not be carried out, of an appointment of a bishop by letters missive at once without any confirmation, from which it would appear that the ceremony was thought to be of such little importance that it was all well for the church and the country that the bishops should be donative of the crown, as elected in the form set down. Had it been of such importance as his learned friend contended, it would never have been dispensed with, and the crown would not have been enabled to do as it has always done in Ireland, and in the case of suffragan bishops, appoint them by its authority, without any such ceremony. In 26 Henry VIII., c. 14, for the appointment of suffragan bishops, they

was no mention of confirmation at all. But a suffragan was a man who had power to give orders and to exercise several high episcopal functions, so that the Parliament could not think the rite of confirmation essential, or they would not have overlooked it in so important a dignitary of the church. The terms of this act were cumulative to those of c. 20, the one enabling the archbishop to select two persons of goodly conversation, learning, and virtue, of whom the king should appoint one to be suffragan bishop, the other giving the right of a similar nomination to the king in all cases. The 31 Henry VIII., c. 9, was to enable the crown by letters patent, without reference to the archbishop, to appoint a number of new bishops (of which a full account was given in the appendix to Burnet), but the scheme failed, one—the Bishop of Westminster—never having been appointed, and of the four which now remained, the bishops were elected by *congé d'élire*, but how the practice was introduced he never could discover. Being opposed, however, to shadows and shams in every place, he was of opinion it would have been comelier if this sort of thing were put away from out of the realm. In the Irish statute of 1st Elizabeth, this act was revived, but in her second year the law was enacted which still obtained, and by which all the bishops in Ireland were donative. The whole intention of the acts on this point clearly was to enable the crown to judge in the first instance who they should appoint, which was its high prerogative, and if it were now to be shaken, a high handed act of Parliament should be passed to set the matter on its proper footing, or the peace of the church again, he said, would be destroyed, and a great triumph and glory afforded to its enemies. The learned gentleman then quoted the act of Elizabeth for the appointment of Irish bishops, wherein the penalties of *præmunire* were threatened on those who refused to invest or who opposed the appointment, reference being made to the former statute of Henry VIII., to the *præmunire* statute of Richard II., and to the statute of Edward III. The court had heard it stated that a *præmunire* must necessarily be in connection with some offence of an ecclesiastical and spiritual nature in reference to the see of Rome; but the argument was untenable, as the penalties of the writ were inflicted on offences which have no such character. In Comyn's Digest (B), quoting from the third Institute, 120—123 (*ad aliud cramen*), they would find that a *præmunire* would apply to acts which had nothing whatever to do with the Church of Rome; and the same point was clearly laid down in King v. Wood, (?) Raymond's Reports, p. 361, which was a proceeding under the "Bubble Act," wherein it was held that a *præmunire* under the statute of Richard II. would apply.

The LORD CHIEF JUSTICE,—I don't think you need go into that any further.

The SOLICITOR-GENERAL merely wished to show that the application of a *præmunire* was not restricted solely to offences respecting the see of Rome by the statute of Henry VIII., as the argument on the other side was, that they must bear this character to come under its penalties. In the affidavit before the court it was stated the proceedings at Bow Church had been commenced by prayer, to make it appear, he supposed, to good and wise men, that whatever was begun in that way could not be considered a sham and a shadow. But the proceedings there were only ministerial, which the Dean and Chapter were obliged, if they did at all, to carry out as they had done, under very heavy penalties, and which, if they left undone, the crown had means to do without them. [The learned gentleman then quoted the words of the letters missive.] It was part of the royal pr



rogative to choose for bishop, before he was elected, a person of learning, wisdom, and gravity, because he had those qualities which would make him a good bishop, as much as it was its prerogative to choose a subject of the realm. Whatever rules might be borrowed from the canonical laws or the priests was contrary to and could not be the law of the land. If they told him that prerogative had been badly exercised, and that Dr. Hampden was a man of unsound doctrine, he would answer by saying that by act of Parliament the crown was invested with higher powers than these, and that acting on the discernment of its advisers in selecting such a man as they thought fit for the office of bishop, the crown had properly exercised its prerogative, and, if resisted, would stand upon the defence of it. The man so named in the letter missive was appointed by *cong  d' lire*. The Dean and Chapter had elected him. Could anything touch that election with respect to the probity of the man himself? Emphatically no, nothing whatever. The words of the statute are imperative, and the election, let Dr. Hampden be never so unworthy in the opinion of the Dean and some of the Chapter, was still worthy to be presented to them as their bishop by the crown, in the exercise of its prerogative, and the election would stand good to all intents and purposes, as if they had cordially approved of him. Could it be for one moment supposed that the crown, which did not permit any person to come between it and its choice as to the man elected, would allow an objector to come in after the election had been actually carried into effect, and to oppose the confirmation of the person so elected? Why should they give leave to any one to do that, after the object of their choice had been elected, which they would not permit to be done before? and why should those grounds of unsound doctrine or immorality, which were not listened to in the first instance, be taken as good matter of objection in the second? Dr. Hampden, as bishop-elect, which he was by law, was able to perform certain ministerial acts relating to the episcopal office, as, to excommunicate, &c., which was clearly laid down in Fitzherbert, *de Natura Brevium*, and could it be supposed the court had authority after he had gone so far to lay him on his back? This would be, indeed, to trench upon the power of the crown, to say to it, You have a high prerogative, a right of choice and presentation, which in the very next breath they should prove was only a shadow and a sham. This argument appeared to him quite unanswerable. He defied his learned friends to meet it, and in order to make an appearance against it they were driven to the canonists and priests to find how this power of nomination and election, which always lay somewhere, ought to be exercised.

First, they had Lyndewode and the Constitutions of Othobon ; but, supposing their *dicta* had the force of sound good sense, they did not carry the point an inch farther. His learned friend (Sir F. Kelly) quoted a passage from Lyndewode (page 217) on the Constitutions of John Peckham, Archbishop of Canterbury, in 1279, which he read for the purpose of using a gloss of Lyndewode's upon, and he (the Solicitor-General) would undertake to show the passage had nothing on earth to do with the election of bishops, and could not bear the construction put upon it. In the very first line the bishop is expressly excluded from its meaning—*excepto episcopo*. The learned counsel then read the passage at length, from which it appeared that the passage in the Constitutions on which Lyndewode commented had merely reference to the proceedings in the case of deans, deacons, &c., and did not refer to prelates, concluding with the passage quoted by Sir F. Kelly :—

“E qu  conclusione apparet, quod in negotio presentationis, quod  quivalat  

electionis, ut infra dicetur, non sufficit vocationem fieri, sed cum hoc opus est discussione negotii. Alia conclusio est, quod licet confirmatio electionis, sine vocatione facta, sit irrita, et inanis. Electio tamen tenet in suo robore et vigore. . . . Tertia conclusio est, quod si plures sunt co-electi, vel plures oppositores, singuli sunt vocandi, si de eis constet."<sup>1</sup>

The "*discussio*" on which his learned friend so much relied, on the supposition that it was an argument at bar, was, from the very meaning of the word, bad Latin at the best, incapable of such a construction, and merely meant a handling of the question, or an examination of the proceedings. Not a syllable had they here about the election of a bishop, and Lyndewode did not tell them anything about *doctores quos vidi*, nor seem to understand the real nature of the passage in Peckham's "Constitutions." But on referring to the gloss, with which John Peckham had nothing to do, he found that "*discussione negotii*," did not, as his learned friend supposed, necessarily imply logomachy at the bar, that is, argument by counsel, but on the contrary, he found it explained simply, "*discussio, id est, inquisitio et examinatio*." The argument is, that the confirming bishop had a right to look into the merits of the electors and of the elected. That he had a right *exactissime* to look into what benefits the party held without dispensation. But what right had these objectors to look into one portion of the law and not into the other, and he would ask their Lordships whether, either in these Constitutions of John Peckham, John de Athon, or in the gloss, there was anything laid down to warrant such a construction as they sought to enforce? These Constitutions belonged to ages before the statute of Henry the Eighth was passed; and his learned friend having failed to produce later authorities in this country, was obliged to go out of England, and he enlisted in his cause foreign authors, living as near the time of Henry VIII. as he could select. He took the work of Lancelottus, a writer of Perugia, who lived under Pope Paul IV., a personage of whom people in this country had no right to think much on account of the imputations which he passed on the birth of Elizabeth. His learned friend quoted from the first book of Lancelottus's work, "*Institutiones Juris Canonici*," under the heading, "*Confirmatio non conceditur, nisi cum causæ cognitione*." The passage was as follows:—

"Is autem, ad quem confirmatio pertinet, diligenter examinare debet et electionis processum et personam electi: est enim hoc generale, ut ad eum pertineat examinatio, ad quem manuum impositio spectat. Et cum omnia rite concurrunt tunc munus ei confirmationis impendat. Quod si secus factum fuerit, non solum dejectendus erit indigne promotus, verum etiam indignæ promovens puniendus. Nihil est enim quod Ecclesiæ Dei magis officiat, quam si indigni ad regimen assumantur animarum."<sup>2</sup>

His learned friend also relied on another passage from the same book and title, under the heading "*In confirmatione facienda, citandi sunt quorum interesse potest. Et calumniose oppositores puniuntur*." As to the meaning to be attached to this word "*interesse*," on which so much of

<sup>1</sup> "From which the conclusion is clear that in the affair of presentation, which is equivalent to that of election, as is stated below, it is not sufficient that a citation be made, but along with this there must be a discussion of the affair. Another conclusion is, that although the confirmation of election made without citation is null and void, yet the election holds in all its force and vigour. . . . A third conclusion is, that if there are several persons co-elect, or several opposers, they are each to be called, if they are known."

<sup>2</sup> "And he to whom the confirmation belongs ought diligently to examine both the process of election and the person of the elect; for this is general, that the examination should belong to him to whom the laying on of hands pertains. And when all things duly concur, then let him bestow upon him the gift of confirmation. But if it shall be done otherwise, not only shall the person unworthily promoted be degraded, but also the person unworthily promoting punished. For nothing is more injurious to the Church of God than that the unworthy should be appointed to the cure of souls."

the value to be attached to the argument depended, they had the glosses of many wise men, all concurring in the same view. Among others, they had the gloss of Lancelottus himself, which his learned friend did not read, but in which he found on the word "impendat" this explanation, "hodie hæc confirmatio non est necessaria," &c., and he then gave a reference in the dialect of the day, which he (the Solicitor-General) would unfeignedly confess he could not understand. It seemed, however, plain that this very person writing on this part of the canon law was himself of opinion that the form of confirmation was not necessary, nay that the Pope sometimes *ex gratia* dispensed with it. And were they to be satisfied with Lancelottus's authority, as to the fact that confirmation must take place, when we find, on his own admission, that it is a thing which can be dispensed with altogether? But cannot the Crown dispense with the form as well as the Pope? It seems to me that no question can arise as to that fact, and that the quotation from the gloss of Lancelottus is as good an authority as the other passage which my learned friend relies upon, and, in fact, as good an authority on the point as can be.

The LORD CHIEF JUSTICE,—The Attorney-General contended that the Pope never acknowledged the authority of Lancelottus at all.

The SOLICITOR-GENERAL said he was aware of the fact, but he wished to show that if Lancelottus was to be relied upon in support of one view, he was equally strong on the other side. From the section which he had just mentioned, "In confirmatione facienda citandi sunt quorum interesse potest," his learned friend quoted the following passage:—

"Illud etiam confirmantem observare oportet, ne dum nimia in confirmando celeritate utitur, contra doctrinam Apostoli proprium affectum juri et æquitati præponat. Itaque, si co-electus aliquis, vel contradictor apparet, ante confirmationem nominatim vocandus est; alioqui si nemo apparet, in foribus Ecclesiæ, in qua Electio facta est, generaliter edicendum erit, ut si qui sint, qui confirmationi futuræ velint opponere, ad contradicendum in assignato peremptorio termino presentes esse debeant. Quæ omnia locum habent, sive concorditer electio fuerit celebrata, sive non. Sciant tamen ii, qui contra electionem opponendum duxerint, se, si probationibus destituti fuerint, ab omni pœnitentiæ præsidio exclusos, legitimis pœnis esse subjiçendos."<sup>3</sup>

With this sentence they had something to do. They had to see whether the archbishop had not to cite those who had an interest in the matter. This, however, involved very serious views as to the right of opposition. When his learned friend said that some of these gentlemen opposers lived in the diocese, it was supposed that they had, therefore, a sufficient interest to come in and oppose. He doubted whether any man in England would not have a right to come in and oppose, if their claim was allowed. What was the qualification that gave the right? Would their Lordships deny it to those who were not living in the diocese, or to those who were not in the church? Would they lay down any form, or any canonical rule, as to the parties who might come in? Might not the clergy of one particular view come forward and say, "We are not in the diocese, but this gentleman may be translated to our diocese hereafter, and as, if he is once confirmed, he need not be confirmed again, this is the only

<sup>3</sup> "The person confirming ought to observe this also, that he does not, while he uses too much haste in confirming, prefer his own affection to justice and equity, contrary to the doctrine of the apostle. Therefore, if any co-elect person or contradictor appears, he is to be called on by name before the confirmation; otherwise, if no one appears, it is to be proclaimed generally, at the doors of the church in which the election took place, that if there are any who wish to oppose the confirmation about to be, they ought to be present to contradict in the appointed peremptory term. All which things have place, whether the election has been celebrated unanimously or not. Nevertheless, let those who have thought fit to oppose the election know, that if they be destitute of proofs, they are to be subjected to lawful punishments, being excluded from all benefit of repentance."

opportunity we can have to oppose his confirmation?" Or why should not the lay members of the church come in? The layman was as good a member of the church as any clergyman of them all, and if he were allowed to come in, would he not insist upon his right to be heard? If they did this, it was needless for him to remind their Lordships of the endless troubles to which they would open the door. Again, supposing that an avowed enemy of the church came in, a "contradictor," a vexatious and troublesome fellow, who would insist on being heard because he did not love the church, and wished to take that opportunity of showing by doctrinal arguments that she was in error, such a person paid church-rates, and could they say that he had no interest or no right to be heard? All these would come in, in the hour of trouble, and seek for some advantage to be gained in troubled times. If their Lordships laid down now who were interested in these matters, they would be laying down the law upon the point for the first time. The word "interesse" no doubt had some meaning. It might be, that the persons claiming to be interested were sent there by the Pope; but, however that might be, of this he was certain, that they should seek in the canon law alone for the meaning of the word "interesse," and in that law they would not find it.

But supposing that, in the opinion of their Lordships, a man were sufficiently interested to come in and oppose—what was he to oppose? Was it the *processus electionis*? No, for under the statute he could not do that. There must be *causa cognitionis* before the archbishop, and that was had in the evidence which he received from the Proctor for the Dean and Chapter. Bishop Gibson used remarkable language on this subject. So high a Churchman was he considered, that even Charles Butler warns the Roman Catholics how they read his book, because, "though a good author, he is a very high Churchman." He believed that Bishop Gibson knew well the matter which brought them to Court this day, and he referred to this very expression, "citation contra oppositores," but in doing so how did he class the *causæ cognitione*. He mentioned the *petitio summararia*, and the various articles contained in it. Among them the sixth, which gave a character to the Bishop elect which, in the opinion of the Dean and Chapter, he was deserving of. That 6th article was, "that the person elected is sufficiently qualified by age, knowledge, learning, orders, sobriety, condition, fidelity to the king, and piety." The petition showed that the Dean and Chapter had elected a man whom the Sovereign thought a fit and proper person for them to elect, and their word to that effect was to stand against every opposer. They say,

"In the first place we tell you, our Lord Archbishop, that the see was vacant, next that we got a royal licence, ordering us to appoint a day for the election, and that we did appoint a day accordingly, and duly summoned all persons concerned. That thirdly, on that day we unanimously chose the person now to be confirmed; fourthly, that the election was duly published and declared to the Clergy and people there assembled; fifthly, that at the request of the Dean and Chapter the person so elected gave his consent."

Then followed the sixth article, which he had just read. The seventh article stated that the Dean and Chapter, under their seal, intimated the election, and the name of the person elected, to the King; the eighth, that the King had given the royal assent; and the ninth, that he had, by his letters patent, required the person elected to be confirmed. Thus it appeared that they had acted on the recommendation of the Crown, who told them to elect this man, and they had, in fact, no power to elect any one else. They present this man, and none other, to the Archbishop, and they then ask him to do his duty, as they had done theirs, in pursuance of

the royal authority, and then they pray that the confirmation may be declared. But was it not very remarkable that if such a right as this now contended for had always been lying by the wall, Bishop Gibson would not have mentioned what were the rights of the *oppositores*? It was incredible that if objectors—lovers of the Church and of religion—had such a right, he would allude to it in such milk and water words. He was a most eminent divine, a man of very great learning, and accustomed to write; and yet he only says on this point—“When the *summaria petitio* is admitted, the Court proceeds to prove the particular matters contained in the petition; for proof of which he exhibits the process of the election made by the Dean and Chapter, &c., and then prays the assent of the Archbishop.” He then mentioned the citation of the objectors, and that on non-appearing they are declared contumacious; but did any man believe that if there were any room for an honest opposition he would not have mentioned it? The fact was, Gibson knew that all this was a mere shadow. His duty would be to instruct the people what to do. He was to lay down the law, and no man could do it better, and he was now referred to as the fountain of authority, and yet he was silent as to any proceeding on the part of the objectors.

It had been mentioned that the rule might refer to the *persona* of the man, to the individuality of the party elected. He would not for the present either affirm or deny that such was the fact. The Archbishop inquired into the *causæ cognitio*, but it was then said that he had something else to do—that he must inquire into the *persona* of the man. But, said the Archbishop, that is found for me already by the Crown. This is the man referred to in the *summaria petitio*, and there described as sufficiently qualified by age, knowledge, learning, orders, sobriety, condition, fidelity to the King, and piety. The learned Solicitor-General here read a passage from Van Espen’s *Jus. Eccles. Univers. pars I. caput 2*, as to the construction of the term “*persona*,” and then continued to say, that in Bishop Gibson there was not a word to show that he thought that “*persona*” meant more than the person of the individual elected, and it was not likely that a person who knew his business so well would have made such an omission, if any other meaning was to be applied to it.

There was but one other point to which he would refer, namely, the connection of the proceedings with the prerogative of the Crown. He would ask their Lordships whether what the opposers demanded was not in restraint of the royal prerogative? The Queen had chosen (for it was idle to talk about the Dean and Chapter having made the choice) a man sufficiently learned for all the purposes required of a Bishop. She had, in her royal wisdom, appointed him to the vacant see, and had commanded the Archbishop to confirm his election. Was it not contrary to reason to suppose that the man who raised his hand to stop that confirmation was not resisting the Queen’s prerogative; or that if, by such efforts, the Archbishop should not within twenty days confirm the election, a damage and a wrong was not done to the royal prerogative, supported as it was by the statute law of the realm? What was the Archbishop to do? It was monstrous to suppose that any opposition such as this could by any conceivable movement in the Court where it was to be tried be terminated within twenty days, and if a trial did take place, how unlike would it be to all the forms of trial with which they were acquainted in England! There was to be a charge made against a man without notice, depending upon evidence which the Court that tried it had no authority to bri



forward, and one in which the Bishop himself might not be called upon to take a part, because it was not so much to the Bishop as to the work of the Archbishop that they objected. They say:—"We beg to tell you that though the Queen commands you within twenty days to confirm the election, her words mean no such thing. That the whole proceeding, from beginning to end, rests with us. That we know what was in the head of Henry VIII., and in the breast of Cranmer when they framed that statute, and in the minds of all who have acted under it from that time to this, better than any of you do. That we know the way in which the Queen's prerogative may, from time to time, be restrained and hindered, and stayed in a manner and on a subject which concerns the peace of her subjects, and that we shall take our stand on John of Peckham, and John de Athon and Lyndewode, and Lancelottus, in comparison with whom the grounds on which you now proceed are but as the dust in the balance."

Mr. M. D. HILL, Q.C., followed on the same side. He said, that notwithstanding the length to which his learned friends had proceeded, he thought he was still justified in detaining their Lordships for some time. After reading the preamble of the act of Henry VIII., he proceeded to say that he considered that statute gave a complete set of rules for the election of Bishops, and that their Lordships were to look to it, and to no antecedent authority for the rules by which elections were to be conducted. In fact it might be considered, as it were, the Grenville Act with regard to the election of Bishops.

Mr. JUSTICK ERLE: The words I believe are, that the Crown may select such person as it shall deem proper and convenient.

Mr. HILL replied that it was so, and their Lordships would bear in mind that the same principle ran through the whole of the proceedings, and that every successive step followed as a matter of course. The *congé d'élire* said that the Dean and Chapter shall elect not merely the nominee of the Crown, but that they shall not elect any other man; and in perfect consistency with that view, the Bishop elect was next to make fealty to the Crown, and that being done the Crown was to send a mandate to the Archbishop to confirm the election. If it were intended that the Archbishop was to exercise judicial authority, would not the statute give direction as to what should be done in case the election was declared invalid? Would it not be monstrous to put into one mandate the express direction to confirm and consecrate if there possibly might be no confirmation at all, and if the Archbishop was to be at liberty to find the election invalid? It seemed playing tricks with the reason and intellect to suppose that an act of Parliament which conferred judicial functions on the Archbishop should proceed in these terms. If it were so, then indeed it might be justly called what it had been termed by a man who owed all his power and authority to that very act—the *Magna Charta of Tyranny*. He thought the proceeding analogous to that which took place in the passing of a poor rate. The act said that the poor rate was to be sanctioned by the consent of two justices. The justices were, however, not to judge whether the rate was good or bad, or whether the exigencies of the parish required it; but they had a judicial function to perform which they were bound to fulfil, and yet they were set in motion only by inferior officers, namely, the overseers of the parish. As their Lordships were already aware, Lord Coke laid it down in Trollope's case, that excommunication may be awarded by a Bishop elect, and in the case of Evans and Kiffin v. Ascuthe, in "*Palmer's Reports*," Lord Coke laid down that a Bishop elect

b. 97-112 are part of vol. 96  
The works of the rev. John Howe.

may sit in Parliament, though only after being confirmed. The statute of Edward VI., though repealed, was of importance in this inquiry. It might be considered almost contemporaneously with the statute of Henry VIII.; and yet in that act the election was spoken of as a mere shadow; and it went on and said, that the power was in the King, and that it ought to be in the King. The fact of Queen Elizabeth having revived the statute of Henry VIII., and not that of Edward VI., was probably to be attributed to the power which Popery then had in this kingdom, and which made it be thought advisable to amuse the people by adhering to some of the ancient forms. But what they did not do in England they did in Ireland. The second of Elizabeth, in the Parliament of Ireland, was, in fact, the statute of Edward VI., in as many words, except that Ireland was substituted for England. But if the Dean and Chapter neglected to elect the person they were commanded to elect, they became guilty of a *præmunire*, and then the King nominated the Bishop, and there was no confirmation required. What was to be adduced from that practice except that the confirmation was a mere form? In fact nothing could be more absurd than to suppose that was a true construction of the act which gave the Archbishop judicial functions, and a power to revise the act of the Dean and Chapter when they did their duty; but which gave him no power of interfering at all when they neglected their duty altogether.

His learned friend Sir Fitzroy Kelly had spoken of the dangers to the church of an improper person being elected; but if that were so dangerous in England, where the church might be regarded as triumphant, how much more applicable was it to Ireland where the church was emphatically a church militant, surrounded by stedfast enemies to the extent of ten to one, and yet where it had not the advantage of any interference from the Rev. John Jebb and the Rev. Peter Somebody, of the diocese of Hereford. very worthy persons, he had no doubt, though he could not but strongly doubt the propriety of their putting themselves forward as champions of the church, when their services were not required. He wished to call their Lordship's attention to the authority of Judge Blackstone, a man whose great eminence might be said to lie in his knowledge of the laws of England in their bearing on the Church of England. In volume I., page 379, of this most eminent commentator, who, he might remark, did not dissent from the text, he said, "but by the statute of the 25th of Henry VIII., c. 20, the ancient right of nomination was, in fact, restored to the Crown;" and he then went on to recite the provisions of the act. The same doctrine was, he found, again laid down to the full extent in the fourth volume in his celebrated chapter on *Præmunire*. He might observe that in a note to the extract from the first volume, it was stated the statute did not apply to the five new dioceses\* created subsequent to the passing of the act, and which were pure donatives, though of late years it was the custom to appoint to them by means of a *congé d'élire*. These dioceses might, however, be at any time made pure donatives again. It was therefore not Ireland alone, but a considerable part of this country which was in the dreadful position which the objectors described. The state of the Isle of Man must, however, be still more deplorable, because the nomination to the Bishopric of Sodor and Man was until a recent period a donative in the hands of a private individual, who exercised to some extent sovereign power in that island. The utility and safety of the Church of England must have been narrowed more and more by degrees, and it was

\* Namely, Gloucester, Bristol, Peterborough, Oxford, and Chester.

not be in vain in the Lord." And if no part of that work shall be in vain, nothing of it, according to that connexion which the grace of God hath settled between work and reward, shall be without its recompence; nor consequently any part of that time, in this our state of expectation, which we had for the doing of such work, shall pass without its relative consideration thereto; if only we had opportunity to give one cup of cold water to a disciple, in the name of a disciple.

Therefore, to shut up all: let us now apply and bend ourselves to this one thing; to get into such a temper of soul, as that we may find, and feel we need patience to wait for the blessedness of heaven. If we do not sensibly need patience, we are dead, there is no life in us. If we live that life that tends towards God, and will end in eternal life, that life will have sense belonging to it, and that sense will make us feel our need of patience; we shall wait, not like stupid stocks, but like obedient children. And when we see this to be the genuine temper of a Christian spirit, how uneasy should it be to us not to be able to say, Blessed be God, it is our temper! Which, if we do find, our own sense not letting us doubt that upon the mentioned account we need patience, our next care must be that we have it; which will not exclude our feeling the need of it. For when we find, that, through the mercy of God, in some competent measure we have it, our sense of the need of it will not cease, *i. e.* we shall never account that we have it as an unnecessary, or needless thing. We shall, indeed, truly judge, with just gratitude, that we do not altogether want it; but shall apprehend we need it still, as that we cannot be without. Yea, and the more we have of it, and are under its dominion and possessive power, the more we shall apprehend its value and excellency, and how needful it is to us. But that when we feel our need, we may not be destitute of it, ought to be our great and very principal care. Nor are we to content ourselves with the mere self-indulgent opinion, that we have it laid up (as in a napkin) in the dull and lazy habit; but must take care that we have it in act and exercise; which is the express import of that apostolical exhortation, (James i. 4,) "Let patience have its perfect work," *q. d.* take care, not merely that you have the principle; as where one good and holy principle belonging to the new creature is, there all are; but that we have it in its present use and operation, or in an actual promptitude, and readiness for use and exercise, as the occasions that call for it shall occur; that then we be not, as men of might, that (though not supposed to want) cannot find their hands, *i. e.* have them not ready for present use.

Moreover, we are here also to consider, that though patience is needful, as that text imports, upon the account of mere absence, and expectation of the good, *i. e.* principally the final blessedness



contained in the promise; and that this alone is a true ground upon which patience is necessary, if we look upon the case abstractly, and *in thesi*, or in the theoric, and contemplation: yet when we come to the exercise of patience, we actually find no such case, wherein the expectation of this promised good is alone; but variously complicated with many other occasions, in this our present state, while we dwell in such a world, and in such bodies, that must increase our need of patience. For, taking the whole matter, as may be said, *in concreto*, and as comprehending all our present circumstances, we may be put to expect the promised good, under much suffering for the sake of Christ and a good conscience, as is signified in this context, v. 32—34. Enduring a great fight of afflictions—made gazing stocks, by reproaches on ourselves, and as the companions of others so used—suffering the spoiling of our goods, even our all, as to this world; so as nothing shall remain to us, but the (expected) better, the enduring heavenly substance. And we may thus be obliged to expect, amidst great bodily pains and languishings, the concussions and shakings of our earthly tabernacles, while, as yet, they come not down; the outward man daily perishing, but we know not how long it will be ere it actually perish; besides the more grievous distempers of the inward man, that not being so sensibly renewed, as with many it is not, day by day. 2 Cor. iv. 16. And thus, if we had no other burdens, we are burden enough to ourselves. Whereupon, the greater our need of patience is, the more earnestly we should endeavour for it. And we are to use very earnest endeavours in order hereto, both with God and with ourselves.

With *God*, by incessant prayer, as the God of all grace; that, as the apostle speaks in another instance, we may abound in this grace also. Another apostle, James, (*ch. i. 4, 5,*) speaks of this Christian excellency, under the name of wisdom. It is plain he so intends: for having (*v. 4*) given the exhortation, “Let patience have its perfect work,” he subjoins, (*v. 5,*) “If any man lack wisdom,”—*i. e.* as is evident, this wisdom, patiently to acquiesce in the divine pleasure under whatsoever exercises, or of what continuance soever; than which no part of wisdom can be more necessary, or any thing more apparently wise. But we see what his further direction is upon that supposition, “If any man lack this wisdom, let him ask it of God,” &c. Agreeably whereto he is pleased to be styled “the God of patience,” (*Rom. xv. 5,*) to let us know, whither, in this apprehended and felt necessity, our great resort must be. And how kind and compassionate is the encouragement given in the following words of that former text, (*Jam. i. 5,*) that “he giveth to all men liberally, and upbraideth not;” is not apt to reproach frail creatures with the folly of their impatient frettings; but freely, upon their request,

to give them that composure of mind which may show them to be truly wise; and wherein their wisdom doth eminently consist. Moreover, we find that elsewhere experience is appealed to, for further encouragement, and as a demonstration of God's faithfulness, in this case, (1 Cor. x. 13,) no temptation hath befallen you, but what is common to man, or incident to our present state, and for the bearing whereof you had divine support: and God is faithful, who will not suffer you to be tempted, or tried, above what you are able, or beyond the ability which he will graciously afford you; but will, with the trial, make a way to escape, that you may be able to bear it, *i.e.* such a way of escape, as will not avoid bearing, but consist with it; and wherein a vouchsafed ability to bear shall consist; so as that you come off unharmed, and without real hurt or prejudice. And since patience is this ability to bear, how reasonable is it, with a filial faith and confidence to supplicate for it!

Yet, as we are thus by fervent prayer, to strive and wrestle with God; it will argue we are grossly neglectful, or very ignorant of God's usual methods of communicating his gracious assistances, if also we do not, by proper and suitable means, strive and take pains with ourselves, that we may obtain what we pray for. And nothing can be more suitable to reasonable creatures, that are not to be wrought upon as stocks or stones, but as men, and Christians, capable of consideration and thought; and of such thoughts and considerations as God's own word, which we profess to believe, hath given ground for; of which considerations there are many, wherewith we should urge our own souls to the exercise of such patience as the present case calls for; *i.e.* while as yet we are to continue expectants, waiting his time for our receiving the promise. In this way we should therefore commune, and discourse this matter with ourselves: "Am not I God's creature, the work of his hands? Hath he not given me breath and being? Was it not for his pleasure, or by his will, that I, with the rest of his creatures, am, and was created? Did it not depend upon his will, whether I should be or not be, have any place in his creation, be any thing or nothing for ever? Did not his own free choice determine in what rank or order of creatures I should be placed; whether among frogs, toads, serpents, or men? Could I choose my place and station in the creation of God? How favourable a vouchsafement was it, that he made me a creature capable of thought, of design, of felicity, of immortality and eternal life, of receiving such a promise, as I am now expecting to be accomplished, and fulfilled unto me! What could be considered here, but the good pleasure of God's goodness? How impossible was it, that so arbitrary and royal bounty should be prescribed unto! And shall I not now wait with patience, for the final result and issue of it?"

But how overpowering a consideration should it be with me, to think, I am not only his creature, but one that had offended him, and how unexpressibly what I expect is above the condition of a revolted creature? One fallen from God in rebellion against him, and by nature a child of wrath! One engaged in the common conspiracy of the apostate sons of Adam, against their sovereign rightful Lord; that were agreed, in one sense, to say to God, "Depart from us, we desire not the knowledge of thy ways;" and were all best pleased, to be as without God in the world! Whence is it to me, one of that vile, degenerate, rebellious crew! that a promise should be before me, and in view, pointed at me, (as it is to all who do not disbelieve or despise it) of entering into the blessed rest of God himself? Heb. iv. 1. Or, according to the nearer, and more immediate reference of the words we have in hand, (*ch. x. 34,*) of having in heaven the better, and enduring substance! And shall I not patiently wait for it? Why am I so over hasty to snatch at what I am but dutifully to receive; and with highest admiration of the rich grace of the glorious Giver?

Is the gift itself wholly in his power, and not the time? Did it not entirely depend upon his pleasure, to give, or not to give? And doth it not as much belong to him to determine when his gift shall take place? Is the substance in his choice, and not the circumstance? The thing itself was infinitely above expectation; and shall it now be grievous to expect the appointed time! There was a time, and state of things, when with me, an offender, an obstinate, impenitent rebel, no other expectation could remain, but of wrath, and fiery indignation. It is of mere gracious vouchsafement, that I comfortably expect at all; and shall I count it a hardship, that I am not presently told how long? And how relieving a thing should it be against the weariness of such an expectation, that so great a good is sure at last, *viz.* as that contained in the promise! For is not He faithful who hath promised? And hath he not so graciously condescended, as to add to his promise his oath, "that by two immutable things, by which it is impossible for God to lie, the heirs of promise might have strong consolation?" Heb. vi. 17, 18. And when this assurance is given to the heirs of promise, (*v. 17,*) *i.e.* to the regenerate; for if children then heirs, (*Rom. viii. 17,*) nothing can be surer than this, in the general, that all that are regenerate, or sincere Christians, shall inherit at one time or other. Nothing is left doubtful, but the time when, *i.e.* the time when they shall die. For they that die in Christ, are past danger. And the method is prescribed us of making our calling and election sure.

When, therefore, this is done, how great is the consolation, that one time or other I am sure to die! What can be surer?

It is not in the power of all the world, not of the greatest enemy I can have in it, to keep me always there, or hinder my going out of it at my appointed time. Such therefore our Saviour, under the name of his friends, (Luke xii. 4,) forbids to fear them that kill the body, and, after that, have no more that they can do: which is a triumph over the impotency of the utmost human malice against good men; the greatest hurt they have it in their power to do them, is to put it out of their own power ever to hurt them more; and to put them into the possession of the most blessed state!

This consideration, therefore, should, at once, both make us patient of death, when expected as an apprehended evil; and of the expectation of the consequent good, to which it is an appointed, unalterable introduction. Of death, as that which must intervene, and in reference whereto itself, we have need of patience, that we may inherit the promise. For that which is sown is not quickened, except it die. It is necessary we be reconciled to this wise, and equal law of our sovereign Lord, by which it is appointed for all men once to die:—that we be satisfied and well pleased, that this world be not continued always, for the production and sustenance of men born in sin; that rebels against Heaven are not to be everlastingly propagated here on earth; that God shall not thus perpetuate his own dishonours, and prevent the judgment that is to shut up this scene, and set all things right between him and his revolted creatures, after apt and suitable means used for their reduction and recovery. With how dutiful submission and complacency should we yield, for our parts, to this constitution; so as for ourselves, not to wish for an exemption. For how can we harbour a desire in our hearts, which we cannot form into a prayer? And how would such a prayer sound, “Lord, when all this world is to die round about me, let me be an excepted instance; let me live here always?” How presumptuous a request were it! And how foolish! For is not the course of God’s procedure herein, from age to age, a constant avowing of the righteousness, and of the immutability of his counsel, in reference to it? It is a wretched thing to be engaged in a war with necessity made by righteousness itself, and the most invincible reason. A pagan, represented in the height of madness, was not so mad as not to see this, *Miser est quicumque non vult, mundo secum moriente, mori*; “that he is a wretched creature, that is unwilling to die, when the world is every where dying with him!” Our patience, possessing our souls, will not endure there should be such a *pugna*, a reluctant disposition not overcome, against this inviolable statute and determination; which disposition must be equally disloyal to our Maker, and uncomfortable to ourselves.

And this consideration should make us patient in expecting the

consequent good, whereto death is the introduction; that the expected good is so ascertained to the friends of Christ, that death intervening cannot be hurtful, or be any bar to our attainment of the good promised; nor is rationally formidable; since we cannot suppose our Lord would forbid our fearing what we have reason to fear. But unto his friends he forbids the fearing of them that can kill the body only, and after that, have no more that they can do: but requires them to fear him that can cast soul and body into hell. It is plainly implied, that killing the body is no hurt or damage to the soul; it cannot separate from the love of God, which is in Christ Jesus our Lord. Rom. viii. 38, 39. No, nor the principalities and powers which, in that juncture, in the very article, or instant of dying, will be sure to do their uttermost to work that separation. And considering this bodily death as an introduction to blessedness, it not only can infer no damage, but it must be our great advantage: which is implied in the mentioned context, Luke xii. 8, "Whosoever shall confess me before men, him will the Son of man confess before the angels of God." For though it is not the lot of every Christian to be an actual martyr; yet every true Christian is an habitual one. Whosoever, therefore, dies with a fixed disposition of spirit never upon any terms to deny Christ, he assures such he will solemnly own them, even before all the angels; which must include their being admitted into a most blessed state. When also such are expressly told, that all things are theirs, (1 Cor. iii. 21, 22,) and *death* is reckoned into the account of the *all things*, this cannot but signify that death is to be, not only no detriment to them, but their advantage and gain; which is also plainly spoken out, (Phil. i. 21,) "For to me to live is Christ, and to die is gain." And that most gainful good being so fully assured to them, they have all the reason in the world to expect it with patience.

Moreover, how consolatory must it be to them that have any taste of spiritual and heavenly things, that so pleasant a way is prescribed them of living, through the whole time of their expecting state, *i. e.* as long as they live in the flesh, *viz.* to live by faith in the Son of God. Gal. ii. 20. How unspeakable is the joy and pleasure of that way of living! That all the days of our abode in the flesh, we have so great a one as the glorious, ever-blessed Son of God to depend upon; by continual, and often-repeated vital acts, resigning ourselves to his conduct and government; and deriving from that fulness, which it pleased the Father should dwell in him, all needful supplies of grace, Spirit, life, and righteousness; and that we are taught to consider him, not as a stranger, or one unrelated to us, or unconcerned for us; but who hath loved us, and (which is the highest evidence hereof) given himself for us, that great, rich, and

glorious self! In whom, therefore, our faith may not only repose, and acquiesce, but triumph and glory! And that we may do thus, not by rare, unfrequent, and long intermitted intervals; but as long as we breathe in mortal flesh, even to the last breath! Should such a way of living be tedious, and irksome to us? Though we expect long, we are not to expect, as forlorn creatures, without Christ, and without hope, and without God in the world! Therefore, in how high transports of spirit should we exult, and bless God, who hath so stated our case: endeavouring to our uttermost, and earnestly aspiring to that excellent temper of spirit, (Col. i. 11, 12,) "to be strengthened with all might, according to his glorious power, unto all patience, and longsuffering, with joyfulness, giving thanks."—And how overpowering a consideration should this be with us! What! am I to aim at that high pitch of all patience, and longsuffering with joyfulness; and, instead of repining to give thanks; and have I not attained so far, as to meet patience? My not being able to endure the enjoined expectation, should make me not endure myself!

# AN APPENDIX,

CONTAINING SOME MEMORIAL OF

DOCTOR HENRY SAMPSON,

A LATE NOTED PHYSICIAN IN THE CITY OF LONDON.

*Who died in 1705.*

ALTHOUGH the foregoing discourse is grounded upon the same text of Scripture that was insisted on soon after the notice was brought to me of this worthy person's decease, and upon the occasion thereof; yet this discourse itself, cannot admit to be called a funeral sermon. The frequent and inward conversation I had with him, divers years, gave me ground to apprehend that the temper and complexion of his mind and spirit did very much agree with the sense and import of this text; which, when I heard of his death, first led my thoughts to it; and was my inducement to say something of it in public, with some particular reference to him, in whom I had seen an exemplification of it in an eminent degree. But of what was then said, I could now give no distinct account. For, having then no thought of its further publication, and my own long languishings presently ensuing, what was spoken upon that occasion, was with me lost. Nor was it afterwards decent to offer at publishing a sermon for the funeral of one, though very dear to me, that was deceased so long before. Yet God affording me, at length, some respiration from the extremity of those painful distempers that had long afflicted me; apprehending, that a discourse upon this subject might be of some use to divers others besides the present hearers, I did, by intervals, set myself to reconsider it: and only now take this occasion to annex some memorial of this excellent person, that first drew my thoughts to it. He was long a member, and lived in communion with many of us, in the same church, viz. by the space of thirty years, under the pastoral inspection of the Reverend Doctor Jacomb, and of him who, with great inequality, succeeded him. This he signified himself, in a paper written by his own hand, and delivered to me when we



were entering upon the administration of the Lord's supper, the last time that God ordered him that opportunity with us. The paper was thus :

Sir,

It is my request to you, that you will please to acquaint the congregation with the great sense I have of the mercy of God, that hath afforded me communion with them, and their ministry, for thirty years together. But now, being, by the providence of God, deprived of my health in the city, I am to seek relief thereof in the country air, and shall thereby be in a great measure deprived of those blessings ; yet I earnestly desire their prayers for me, and my family, that, in some sort of such intercourse, our communion may continue still, if not in body, yet in spirit ;

Your servant,

HENRY SAMPSON.

He now found himself constrained by his declining age, and growing distempers, to retire from us (but not without very great reluctancy) into a village at no great distance from the city ; but which, for change of air, was necessary, and, as he found, relieving to him. From thence his earnest desire to visit his relations, and native country, engaged him in a long journey, as far as Nottinghamshire. And that journey brought him into the better, even the heavenly country ; God so ordering it, that near the place where he drew his first breath, he should draw his last ; and end a very holy, useful life, not far from the very spot where he began to live. For reaching the seat of a reverend brother of his, near to that of his birth, he there found, but for a very few days, a temporal, and there entered upon his eternal, rest. So falling a little short of the *patrias sedes*, the place that had been the dwelling-place of his earthly parents, by a joyful anticipation he sooner arrived at his heavenly Father's house, and found his place among the many mansions, and everlasting habitations, where was to be his proper and perpetual home. It is not now my design to write the history of his life ; the former part, and therefore, the longer course and tract whereof, must have been more known to divers of our society, than it could be to me ; though I have had much opportunity also, within the space of twenty years past, to understand, and know much of it. But that must contain many things, which, though useful in their kind, my circumstances allow me not to relate. Nor shall I enlarge in giving his character, though the subject is copious ; for my present infirmities will make my limits narrow, whether I will or no.



But a man of real value, and usefulness in his station, and of so instructive and exemplary a conversation, ought not to be neglected, or be let slide off the stage from among us, without some such observation, as may some way answer a debt owing to his memory; and be a real gain and advantage to ourselves.

He began his course, favoured by the Author of nature with very good natural parts; and very early enriched with communications of the more excellent kind, by the God of all grace. Herewith, having his spirit seasoned, and deeply tinctured betimes, the fear of the Lord, which is the beginning of wisdom, became, near the beginning of his course, the governing principle thereof. His choice was, therefore, of that way and state, wherein he, in the general, conceived he might most glorify God, and do most good to men. And because he thought he might serve those ends best, in that high and noble employment, wherein he should be obliged principally, and most directly, to intend the saving of men's souls, thither he more immediately bent and directed his preparatory endeavours.

And, therefore, though in his academical studies, wherein he spent several years, he neglected no part of that rational learning which was most fitly conducing and serviceable to this his purpose; yet he most earnestly applied himself to the gaining a thorough acquaintance with those languages wherein the holy Scriptures were originally written; and spared no cost to procure great variety of the best and most celebrated editions of both the testaments, with other helps, for the attaining of that most necessary knowledge; whereof his library, so richly furnished in that kind, did appear, after his decease, a full evidence; to the bettering of divers other libraries, of such as he had formerly been wont to hear, and among them, as I must with gratitude acknowledge, by his special kindness and bequest, my own. Accordingly this had been his calling, if the way of managing it could as much have been the matter of his choice, guided by his judgment and conscience, as the calling itself had been.

But things falling out, in this respect, otherwise, before he could solemnly enter upon it; he seasonably diverted from it, to that which he had judged the next best; and wherein the persons of men were still to be the objects of his care:—things of higher excellency than lands and riches; as life and the body are, by the verdict of our Saviour, of more worth than their perquisites, food, and raiment, unto which ample estates and revenues are but more remotely subservient. And the vicinity of this to that other most excellent calling, is so near, that it is an easy step from it to the affairs of the other: which we see exemplified in that excellent person, a dear and most worthy

relative of the deceased (Dr. Grew); unto whose historical account of him, subjoined to this discourse, I refer the reader for fuller information; whose most useful and elaborate works may not only occasion us to consider theology as every one's business; or the calling of a divine, as in some respect transcendental, and running through every man's calling; but that of a physician, as more nearly allied to it than any other; and many excellent speculations being common, and, as those works show, of great importance to both: and, in which performance that accurate writer doth not, indeed, preach to the vulgar; but instructs preachers. And, as it hath been sometime thought a greater thing to make a king than to be one, he hath attained a higher degree above being, himself, one single preacher, in doing that, whereby now, and in future time, he may contribute to the making of many.

These are some instances, and blessed be God, it is to be hoped there are others, which show, that *religio medici* is not always opprobrious, or a note of ignominy and reproach; and that a "beloved physician," on the best account, was not peculiar to the first age. That calling gives very great opportunity to a man of a serious spirit, of doing good to men's souls; and I know it hath been improved by some, to discourse and to pray with their dying patients; and when their art could not immortalize their bodies, they did all that in them lay, for the saving their immortal souls. And this, I have reason to think, was a great part of the practice of this worthy man. In the proper business of this calling, he sincerely studied the good of mankind; endeavouring to his utmost, to lengthen out their time in this world, in order to their further preparation for the other. And herein his skill was not unequal to his sincerity; nor his charity to his skill; for being applied to, upon no former acquaintance, when the cases of extreme illness, and extreme poverty have met together, he hath most cheerfully embraced the opportunity of doing such good; declaring he was ready as well to serve the poor, when he was to receive nothing, as the rich, from whom he might expect the largest fees: his visits have been there repeated with equal constancy and diligence. He equally rejoiced in the success of such endeavours, whereof he had no other recompence than the satisfaction of having relieved the distressed and the miserable. And of such, some do survive him, to whom the remembrance of his name is still grateful and dear. Nor were the great advantages lost, which he had gained for the instructing a congregation; (had the state of things, and his judgment concurred thereto) for they eminently appeared to such as had the privilege of living under his roof, and of partaking in the instructions which his great acquaintance with the holy Scriptures enabled him to give them from time to

time : which, together with his daily fervent prayers, and holy conversation, made his family as a well-ordered, and a watered garden, compared with the howling wildernesses of too many others.

But in all my conversation with him, nothing was more observable, or more grateful to me, than his pleasant and patient expectation of the blessed state which he now possesses: the mention whereof would make joy sparkle in his eye, and clothe his countenance with cheerful looks; accompanied with such tokens of serenity, and a composed temper of mind, as showed and signified submission, with an unreluctant willingness to wait for that time, which the wisdom and goodness of God should judge seasonable for his removal out of a world which he loved not; nor yet could disaffect, from any sense of its unkindness to him, but only from the prospect he had of a better. Which made me think him a fit example of what is treated of in the foregoing discourse.

THE WORTHY  
DOCTOR GREW'S ACCOUNT  
OF HIS EXCELLENT  
BROTHER-IN-LAW.

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DOCTOR HENRY SAMPSON was the son and heir of a religious gentleman, Mr. William Sampson, of South Leverton, in Nottinghamshire: and nephew to those two eminent linguists, Mr. John and Mr. Samuel Vicars, the joint authors of the "Decapla on the Psalms." In his minority, he was first under the government of his most virtuous mother. Upon her re-marriage of his father-in-law, the very reverend Doctor Obadiah Grew, of Coventry, he was by him committed, at the age of fifteen, to the tutorage of Mr. William Moses, then fellow, and some time after the learned and worthy master of Pembroke Hall in Cambridge: under whom, his proficiency was such, as preferred him to be the moderator of his year. So soon as he was of sufficient standing, he was chosen fellow of the same Hall: and, not long after, had one of the best livings in the gift of the college bestowed upon him, viz. that of Framlingham, in Suffolk. Here he was, when he published that correct edition of the learned Thesis of Mr. Thomas Parker, entitled, "Methodus Divinæ Gratiae," &c. a golden book, with a golden epistle of his own prefixed to it; both of them having a great deal of weight in a little room. While he continued here, he made several visits to Coventry, where he often preached for the doctor, his father-in-law, with great acceptation, as well as among his own people; in both which places his name is as a precious ointment, and his memory had in honour unto this day. Upon the restoration of King Charles, being obliged to leave his people, he resolved, as well because he was never ordained, as for some other reasons, to qualify himself for the practice of physic. In order whereunto, having visited several universities, famous for medicine, abroad, he stayed first at Padua, and then at Leyden, for some time: in the latter of which he became very well acquainted

with that eminent person, the Lord Chief Justice St. John, who bore a singular respect to him as long as he lived. Having here taken his degree, he returned home and settled in this city: where also, for order's sake, he entered himself of the college of physicians, as an honorary fellow; among the members whereof he justly obtained the repute of being substantially learned in all the parts of his profession. Besides other improvements he aimed at, he laid up a considerable treasure of observations made of diseased bodies, dissected with his own hand. Nor did he lose any of his spare hours; as appears by many historical papers relating to theology, left behind him. All which, though they have been long suppressed, partly through his own great modesty, and partly the infirmities of his latter years, which permitted him to finish but few, if any of them; yet it is hoped, that some of both kinds, may ere long see the light. His reading and speculation were ever in order unto action. By which means, as he became, under all relations, in every station of his life desirable and exemplary unto others; so he enjoyed the happiness of continual peace within. And, as he lived, he died; his last hours being very composed, and concluding with that *εὐθανασία*, "euthanasia," for which he had often prayed.

THE CARNALITY  
OF  
RELIGIOUS CONTENTION:  
IN TWO SERMONS,

PREACHED AT THE MERCHANTS' LECTURE, IN BROAD STREET.

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THE PREFACE TO THE READERS.

THIS title, nobody can think, is meant to condemn all contention about matters of religion as carnal; but since there is too much which is apparently so, it only signifies it to be the design of the following discourse to show what contention that is, and when, or in what case, though it hath religion for its object, it may not have it for its principle; but that very frequently, the lust of the flesh hides itself under that specious name: and to show wherein, while it affects to hide, yet unawares it discovers itself in the management of affairs of that sacred kind. Thus it often really is; and then is that noble cause as ignobly served, as when, (according to that father's observation) a man proves to be unfaithful even for the faith, and sacrilegious for religion. *Cypr. de Simpliciter. Præl.*

When in one place, (Jude 3,) Christians are exhorted to contend earnestly for the faith; and in another, (2 Tim. ii. 24,) we are told the servant of the Lord must not strive; it is plain there is a contention for religion which is a duty, and there is a contention, even concerning religion too, which is a sin. And that sin the apostle, in this context, out of which our discourse arises, doth deservedly expose by the name of flesh, and of the lust, or of the works thereof; such as wrath, variance, envy, hatred, &c. Whence it is easy to collect in what sense it is said in the mentioned place, the servant of the Lord must not strive, *viz.* as that striving excludes the gentleness, the aptness to instruct, and the patience, which are in the same place enjoined, where that striving is forbidden. And from thence it is equally easy to collect, too, in what sense we ought to contend for the faith earnestly, *i. e.* with all that earnestness which will consist with these, not with such as excludes them: as earnestly as you

will, but with a sedate mind, full of charity, candour, kindness, and benignity towards them we strive with. We ought, we see (in the mentioned place) to be patient towards all men. Towards fellow Christians there should certainly be a more peculiar brotherly kindness.

The difference is very great, and most discernible in the effects, between the church's contentions against enemies without it, and contentions within itself. The former unite it the more, increase its strength and vigour. The latter divide and enfeeble it. As to those of this latter kind, nothing is more evident, or deserves to be more considered, than that as the Christian church hath grown more carnal, it hath grown more contentious; and as more contentious, still more and more carnal. The savour hath been lost of the great things of the gospel, which have less matter in them of dispute or doubt, but which only did afford proper nutriment to the life of goodness; and it hath diverted to lesser things, (or invented such as were, otherwise, none at all) about which the contentious, disputative genius might employ, and wherewith it might entertain, feed, and satiate itself.

Thereby it hath grown strong and vigorous, and acquired the power to transform the church from a spiritual society, enlivened, acted, and governed by the Spirit of Christ, into a mere carnal thing, like the rest of the world. Carnality hath become, and long been in it a governing principle, and hath torn it into God knows how many fragments and parties; each of which will now be the church, enclose itself within its own peculiar limits, exclusive of all the rest, claim and appropriate to itself the rights and privileges which belong to the Christian church in common, yea, and even Christ himself, as if he were to be so enclosed or confined; and hence is it said, Lo! here is Christ, or there he is, till he is scarce to be found anywhere, but as, through merciful indulgence, overlooking our sinful follies, he is pleased to afford some tokens of his presence both here and there. Yet also how manifest are the tokens of his displeasure and retirement! And how few will apprehend and consider the true cause! I will now adventure to offer these things to serious consideration.

1. Whether for any party of Christians to make unto itself other limits of communion than Christ hath made, and hedge up itself within those limits, excluding those whom Christ would admit, and admitting those whom he would exclude, be not in itself *a real sin*? When I say *make to itself*, this more peculiarly concerns those who form their own communions, having nothing herein imposed upon them by civil authority. Let others censure themselves as they see cause. They have a holy table among them, the symbol of their communion with one another in the Lord. I would ask, "Whose is this table? Is it the table of this or that man? or party of men? or is it the Lord's table?" Then certainly it ought to be free to his guests, and appropriate to them. And who should dare to invite others, or forbid these?

2. If it be a sin, is it not *a heinous one*? This will best be understood by considering what his limits are. Nothing seems plainer



true that one great object of the statute 25 Henry VIII. was to get rid of the interference of the Pope in the confirmation of bishops, but it was equally true that another great object was to get rid of freedom of election altogether. But the statute 23 Henry VIII. said that the bishop elect should be presented to the Pope for confirmation ; and it was mentioned in a note to Gibson's Codex that Cranmer paid 900 golden ducats for his bulls. That statute provided that if the Pope delayed confirmation for an unreasonable time, the appointment of the bishop should vest absolutely in the crown. His learned friends on the other side must, therefore, contend that, such being the law under the statute 23 Henry VIII., a statute was afterwards passed in the 25th year of that sovereign to abridge the power of the king, and that Henry VIII. delegated to inferior persons in the church an inquiry into the fitness of a person who had been elected by the dean and chapter, and of whom he himself had approved. That latter statute of Henry VIII. was re-enacted by the statute passed in the 1st year of Elizabeth, and it was impossible to find language more conclusive to show that all the powers which the Pope might lawfully exercise within the realm of England were by that act transferred to the king. Up to the time of the act of 25 Henry VIII. the election of a bishop was considered free ; but that statute took away freedom of election altogether. No confirmation was necessary under that act when the dean and chapter refused to elect the person nominated by the crown, in which case the king had an absolute power of appointment ; but when they obeyed the king's letters missive confirmation became necessary. Upon that view of the facts of the case the whole object of the statute was plain and intelligible. If one form (that of election) was preserved, then it became requisite that the form of confirmation should be preserved also ; otherwise not. His learned friends on the opposite side must either contend that a bishop elect, though not confirmed, must remain a bishop elect for life, or that the parties refusing confirmation had the power of rejection—a line of argument which was in direct opposition to the words of the statute, which said that “the election should be good and valid to all intents and purposes.”

There was another part of the case on which he should wish to cite a few authorities to the court. He submitted that the rule must be discharged, upon the principle that the matter had already been heard and decided by a court of competent jurisdiction, assuming—and he found some difficulty in assuming it even for a moment—that his learned friend, Sir F. Kelly, had established the first part of his case. He maintained that, however erroneous the decision of the ecclesiastical court might have been, the Court of Queen's Bench could not interfere by *mandamus*. Another ground of objection was, that it was an established principle that this court would not issue a writ of *mandamus* to the ecclesiastical courts, where the ground for proceeding was that they had mistaken the ecclesiastical law. He would refer their lordships to the cases decided upon applications for writs of *mandamus* to the ecclesiastical courts. In the case of “Lucy v. the Bishop of St. David's,” 1 Lord Raymond, 539, it was said by Lord Holt, that “it was without precedent to grant a prohibition to the ecclesiastical court because they had proceeded contrary to the canon law.” He (Mr. Waddington) maintained that it was equally against principle to grant a *mandamus* against them because they had mistaken the canon law.

In the case to which he had just referred the application for a writ of *prohibition* having been refused, the parties moved that a writ of *mandamus*



might issue, requiring the delegates to admit certain allegations which they had already said that, by the canon law, they could not admit. Lord Holt said, upon that occasion, "that the Court of King's Bench could not grant a *mandamus* to them to compel them to proceed according to their law," and that writs of *mandamus* were issued to compel the granting of probates, because wills concerned temporal rights. That the court might by *mandamus* compel the ecclesiastical court to grant probate when the will was not disputed, was clear from the case of "*Rex v. Sir John Raines*," 1 Lord Raymond, 362. The will in that case was not contested, but probate was refused because the executor mentioned in the will was a bankrupt, and could not find security for executing the will. That case was confirmed by another, "*The King v. Dr. Hay*," reported, 4 Burr., 2,995. There was a *lis pendens* respecting the validity of a will in that case, and when that fact appeared upon the return to the writ of *mandamus* which had issued, the writ was quashed.

There were also some cases respecting applications for writs of *mandamus* to compel the civil courts to elect persons to offices. One of these was reported in 3 Mod., p. 335, where a party applied for a writ requiring the ecclesiastical court to appoint him to the office of proctor, but Lord Holt said that the ecclesiastical court had an original jurisdiction in this matter, and that a *mandamus* was in the nature of an appeal, which could not be granted when the court complained of had jurisdiction. Lord Holt said that parties could not be dragged *ab uno ad aliud examen*. So in "*Rex v. Archbishop of Canterbury*," 8 East, 213, there was an application for a *mandamus* to the ecclesiastical court, requiring them to admit the applicant to practise in that court as a doctor of civil law. But Lord Ellenborough said that in every application for *mandamus* there must be a legal right, and the absence of a specific legal remedy. The principle of this decision was the same as that laid down by Lord Holt, but it was expressed in different language.

There was also a large class of cases, to which he should refer very shortly, in which applications had been made for a *mandamus* to justices of the peace. His learned friend, Sir F. Kelly, had cited "*Rex v. the Justices of Kent*," 14 East, as an authority in his favour. The court certainly had granted a *mandamus* in that case, because the justices had declined to act under a statute which clearly gave them jurisdiction; but that was done upon the principle that the court would interfere wherever a court of competent jurisdiction refused to act, and the case was no authority at all for saying that this court would interfere when the justices had mistaken the law on a matter within their own jurisdiction, and had acted upon such an erroneous view. In "*Ex parte Smith*," 3 Ad. and Ell., 719, there was an application for a *mandamus*, and also for a prohibition, the latter point being reported in 2 C. M. and R., and in this case the Court of Queen's Bench and the Court of Exchequer refused to interfere with the Judicial Committee of the Privy Council, upon an application suggesting that there was error in the refusal of the Judicial Committee to hear a petition. The cases relating to magistrates were so familiar to the court that he would not dwell upon that point, but would only refer to "*Ex parte Pratt*," 7 Ad. and Ell., 27, and "*The Queen v. Kesteven*," 3 Queen's Bench Reports. He should not occupy their lordships' time further, having now discussed the two principal points of the case, though he by no means abandoned the ground which had been already urged having reference to the interest of the opposers in this proceeding.

Dr. ADDAMS then rose in support of the rule, and commenced his observations by saying that, in the absence of his learned friend, Sir F. Kelly, he felt that he could not do the case that justice which it demanded, because he could only address their Lordships in aid of the argument which he had expected from his learned friend; and next, because he had not the slightest notion last night that he should be called on to address the Court that day at all. Under these circumstances, he trusted he should receive their lordships' indulgence. In moving the discharge of this rule, his learned friend, the Attorney-General, stated that he meant to contend, first, that the act of the archbishop in confirming was merely ministerial; secondly, that assuming him to act in a judicial capacity, the remedy was by an appeal to the Privy Council, and not by an application to this Court for a *mandamus*; and thirdly, that if, as he (Dr. Addams) contended, the Court in which these proceedings were originally instituted was a court, it was unavailing to send the parties back to be re-heard, because the Court had no means of satisfactorily investigating the charge. Fourthly, he understood his learned friend to say, that the charge ought to be inquired into, if at all, under the Church Discipline Act, and that this Court had no right to enter into the investigation of questions of that nature; and, lastly, his learned friend contended that this was, at all events, not a case for a *mandamus*. Now, with respect to the act of the archbishop, or of the vicar-general, representing the archbishop, being merely ministerial, that would depend on the true construction of the statute 25th Henry VIII. His learned friend, in order to introduce what he considered to be the true construction of the act, entered into the general history of the appointment of bishops anterior to that act, from times of the earliest antiquity.

Without following the Attorney-General into the particulars, he would state very briefly what he understood to be the state of the case prior to the establishment of the canon law, and from that period down to the present time. Prior to the existence of the canon law, the appointment of bishops was in the people and the clergy. In process of time, the people were excluded, and then the diocesan clergy appointed the bishop, and afterwards the diocesan clergy also were excluded, and the appointment came to be vested in the clergy of the cathedral. The nomination of bishops, under the last was, however, to all intents and purposes, vested in the crown. No one could doubt that the "placing" of a bishop was in the crown, but that was not the case in the "making" of a bishop, which was a totally different thing. The Attorney-General assumed that an attack was made on the prerogative, because he (Dr. Addams) and his learned friends maintained that the appointment of a bishop was not valid without confirmation; but the prerogative of the crown was no more attacked than it was when it presented a clerk to a living, and a bishop inquired into his fitness for office. Without meaning to question the right of the crown to appoint to bishoprics, he maintained that, at all times, and under all circumstances, whether the appointment belonged to the people and clergy, the diocesan clergy, or the clergy of the cathedral, the election or nomination was incomplete until consummated by confirmation. That this was the case under the canon law, and anterior to its existence, was proved by authority beyond dispute. The learned advocate referred to Justinian, novel 123, who said that "the person by whom the bishop is to be consecrated is to make sufficient inquiry, with regard to the clerk to be consecrated, before he proceeds to consecrate him; and if any one challenges his eligibility to consecration, he shall

have three months to complete his inquiry, before the consecration takes place." Lancelottus, and other canonists, were quoted in support of this position, and he (Dr. Addams) proceeded to argue that the only question consequently was, whether, at the time of the Reformation, the canon law on this subject was not adopted into the law of this country. The learned civilian who had addressed their Lordships, (Dr. Bayford,) had contended that the writings of Lancelottus were not incorporated with the canon law; but it could not be denied that what he wrote was all but admitted into the *Corpus Juris Canonici*, and that his authority was of the greatest possible weight on the subject of the election of bishops. (The learned advocate then referred to some passages of Lancelottus in support of his own view of the case, but they were objected to by the Attorney-General, because his edition of the work did not contain them.) At all events, Lancelottus laid down the rule that confirmation of an election was generally necessary, and that it was *à multo fortiori* necessary in the case of a bishop. He thought that, without citing any authority from the canon law, considering the authority of this extract, he could not put the practice of the canon law upon a higher footing; and then came the question whether this practice had been adopted, at the time of the Reformation, into the law of this country, and had been acted upon.

Blackstone said, that at the time of the Reformation, it was enacted by parliament that the canon law should be reviewed, and that all the constitutions which were not repugnant to the law of the land, or to the king's prerogative, should, in the meantime, remain in force; and, as the canon law was never reviewed, it was upon this statute that the authority of the canon law in England now depended. The confirmation and consecration of Cranmer took place before the act which gave supremacy to the crown, and he was elected by a *congé d'élire*, which had crept in at some anterior time, and under which the election of a bishop was nominally given to the dean and chapter, though in substance it was vested in the crown. That power, however, was controlled by the right which the Pope insisted on, of confirmation, and Cranmer had to pay to the Pope for his eleven bulls 900 ducats. He would have hereafter to call their lordships' attention to the act of Edward VI. From the commencement of the reign of Queen Mary there were traces of the same customs having been adopted in the confirmation and consecration of bishops, which exist to the present time, because it appeared that the confirmation and consecration of Cardinal Pole proceeded in the same form which it was to be presumed had been adopted immediately after the passing of the act of the 25th of Henry VIII., and which still remains in force, namely, by a *congé d'élire* to the dean and chapter, and a subsequent confirmation in Bow Church.

On coming to the reign of Elizabeth, however, there were documents remaining which would remove all doubts as to the form of proceeding. The first Protestant archbishop after Cranmer, if he were to be considered as one, was Archbishop Parker, and the documents connected with his confirmation and consecration, still exist, and prove that all the forms of the canon law were followed, and that they were such as have been adhered to from that time down to the confirmation or *quasi* confirmation of Dr. Hampden to the see of Hereford. An account of the whole proceedings connected with the well-known fable of the Nag's Head Confirmation was to be found reprinted in Archbishop Bramhall's work, "Library of Anglo-Catholic Theology." It is stated to be

from the original registry, still kept in the court of the Middle Temple, the contractions, stops, and orthography being retained as far as possible. He would not trespass on the time of the Court by reading the document, which was very voluminous, but there was one portion of it to which he wished particularly to direct their lordships' attention. It appeared that on the occasion of the confirmation, the libel, or summary petition, which, in substance, was identical with that presented in Dr. Hampden's case, was given in; and that, unlike the present case, witnesses were examined in support of it. The objectors, on being called, did not appear, and then the exhibition of the libel was considered to be sufficient proof as to the less material articles. Baker, the first witness called, proved the 1st, 2nd, 3rd, 4th, 5th, 6th, and 7th articles as a matter of course, but on the 8th article being read, the depositions of the witnesses were taken down. A person named Tolwyn, a master of arts, who appeared to have been seventy years of age, and in possession of a living in the diocese of London, was also examined. The learned counsel here read the examination in Latin of these witnesses, in order to show that they had been sworn and regularly examined with regard to the age, learning, piety, &c., of the elected archbishop.\*

MR. JUSTICE ERLE inquired what was the date of that proceeding?

DR. ADDAMS said the confirmation took place in the 1st of Elizabeth, the date being the 9th of December, 1559.

MR. JUSTICE ERLE said he wished to know if the confirmation was before the passing of the act which revived the statute of Henry VIII.?

THE ATTORNEY-GENERAL said he would furnish the Court with the dates from Strype, who gave a different version of the proceeding.

DR. ADDAMS said he would proceed to show that the election was of no force whatever by the canon law, until it was consummated by the confirmation, and that no alteration of the canon law in this matter was contemplated by the act of Henry VIII. He did not know how the archbishop could inquire into the fitness of the bishop elect during the reign of Edward VI. As the reign was short, and the times unsettled, there

\* The following is a translation of the examination, as it appears in Bramhall's Works, vol. iii., p. 199.

"On the libel, or summary petition presented on the part of the venerable men, Masters the Dean and Chapter of the Cathedral and Metropolitan Church of Canterbury.

"JOHN BAKER, gent., residing openly with the venerable and excellent man, Master Matthew Parker, elect, of Canterbury, thirty-nine years of age, born in the parish of St. Clement, in the city of Norwich, of free condition, as he saith, and produced, sworn and examined as a witness of and concerning the aforesaid libel, saith as follows:—

"To the first, second, third, fourth, fifth, sixth, and seventh, he refers to the process in such cause had and made.

"To the eighth he saith, and in virtue of his oath deposeth, that the most revered presbyter, Matthew Parker, was and is a provident man, and recommended by his knowledge of letters, by his life and manners, and a free man, and sprung from lawful wedlock, and is of the legitimate age, and in the sacerdotal order, and a faithful subject of the said Lady our Queen; in giving the reason of his knowledge in this matter he saith—that he is the natural brother of the said master the elect, and that they are sprung and born from the same parents.

"To the ninth, tenth, and eleventh he refers to such process.

"To the last he saith, that the things before deposed are true, &c.

"WILLIAM TOLWYN, Master of Arts, and rector of the church of St. Anthony, in the City of London, seventy years of age, as he saith, of free condition, &c., witness, &c.

"To the first, second, third, fourth, fifth, and sixth, he refers to such process.

"To the eighth he saith and deposeth that the things contained in such article are true, of his certain knowledge; because he saith that he hath known him well for these thirty years, and throughout the same time he has been very familiar with him. The deponent also saith that he knew his mother.

"To the ninth, tenth, eleventh, and twelfth, he refers."

might not have been any proceedings of this nature ; but, at the same time, he was very far from saying that no means of inquiry was afforded to the archbishop, even during that period. With regard to the new bishoprics in the immediate gift of the crown, reasons had been suggested why the form of nomination had been altered, and the practice assimilated to that in the old dioceses ; but he thought he could suggest other reasons, more satisfactory to the Court. It might be said that the election by *congé d'élire* was adopted in order to adhere to old forms, or in order to put fees into the pockets of certain parties who would benefit by the election ; but he thought it was far more probable that the metropolitan had declined to consecrate without a previous confirmation, and an inquiry as to the fitness of the person to be consecrated. If their lordships would look to the form prescribed for the ordination of deacons and priests, they would find that a mode was given for an examination of the candidates ; whereas, in the form of consecration of bishops, there was no mode given, and it was to be supposed that some other means existed of ascertaining the fitness of the candidate. It was provided, not only that the archbishop should proceed to the consecration without inquiry, but without even the possibility of any inquiry.

MR. JUSTICE COLERIDGE.—Are you now speaking of the present system.

DR. ADDAMS.—Yes, my lord.

MR. JUSTICE COLERIDGE.—Is there any difference between that, and the form of consecration under Edward VI. ?

DR. ADDAMS.—None whatever on that point. As in the case of celebrating marriage, where all persons are called upon to come in and state if they know any objection against the parties being married, so in ordaining priests and deacons, all persons having any objection to offer, or knowing any impediment in the claimant for ordination, are called to come forward and make their statement. The archdeacon was also required previously to examine 'into the merits and qualifications of the person to be ordained. In the consecration of a bishop, however, there was no analogous proceeding—the person was presented as a fit and godly man, and no inquiry takes place, except some questions put to the bishop elect himself.

The ATTORNEY-GENERAL said he was now prepared to inform the Court what the dates were connected with Archbishop Parker's appointment, from Strype. The *congé d'élire* was issued on the 18th of July, in the 1st of Elizabeth. There was no letter missive. The election took place on the 1st of August ; on the 7th of December the day of confirmation was fixed to be holden on the 9th of December, and on the latter day the confirmation took place. They had it then under Archbishop Parker's own hand that his consecration took place on the 17th of December.

MR. JUSTICE ERLE.—What is the date of the Act of Elizabeth ?

The ATTORNEY-GENERAL.—It was passed in the first of Elizabeth, but the day of the month is not given.

MR. JUSTICE ERLE.—Is there any time mentioned for the act to come into force ?

The ATTORNEY-GENERAL.—It is not usual in acts of that period to have such words introduced. We know, however, that the queen began her reign in November, and that the parliament assembled in January.

DR. ADDAMS said he had no doubt but that the dates were given by Strype, but they had it distinctly stated by Burnet that



was a letter missive issued, and he distinctly mentioned, in the account of the election, that the dean proposed Dr. Parker, in pursuance of the queen's letter. The learned doctor here read the account of the election, as given by bishop Burnet.\*

The ATTORNEY-GENERAL read an extract from Strype's Life of Parker, b. ii., c. i., p. 51, in which it is stated that no letter missive was issued.

"Several previous things were done in order to the enstating our divine in his high office. First, the said church having been now without a pastor and archbishop from the death of Cardinal Pole, the late archbishop, (who died in the night succeeding the day of Queen Mary's death,) the dean, Dr. Nicholas Wotton, and the chapter, had, by their letters, certified the queen of the same, and humbly besought her to license them to elect a fit person to fill the said see. To which petition and request the queen condescended; sending to them her letters patents, (commonly called *congé d'élire*,) dated at Westminster, the 18th day of July, in the first year of her reign, granting them licence to go to election, without naming any person in the said letters, but only requiring them to elect such a person for their archbishop and pastor, who should be devout to God, and useful and faithful, both to her and to her realm."

Dr. ADDAMS continued to say, that he would proceed to consider whether any material alteration had been made by the statute of Henry VIII., in the practice which had previously existed. Though the election by the dean and chapter was, to a certain extent, a free election, still it left the nomination virtually in the crown, and the statute of Henry VIII. only made that a positive law which was previously a constant practice. It had been contended that the *congé d'élire* and letter missive to the dean and chapter to elect the person named, and none other, was to be taken as a command, the breach of which subjected the parties to a *præmunire*. This opinion, he admitted, rested on very great authorities, including even so great a man as Bishop Gibson; but he would say of Bishop Gibson as the Attorney-General said of Lyndewode, that, after all, he was but a man. He entertained a contrary opinion; but he would say that, even if the Crown did claim the right under the act of Henry VIII. to issue a positive command to the dean and chapter of Hereford to elect Dr. Hampden, it did not exercise that right on the present occasion. The learned doctor read the terms of the *congé d'élire*, the material words being—"We require and command you, by the faith and allegiance by which you stand bound, that you elect such a person for your pastor as may be devoted to God, and faithful to us and our successors." In the letter missive in which Dr. Hampden was named, there was nothing about their faith and allegiance, but it simply said, "We have been pleased to name and recommend him unto you by these presents, to be elected and chosen unto the said bishopric of Hereford, and we require you by virtue hereof to proceed with the election within twenty days," &c. If the dean and chapter disobeyed that letter missive, the consequence would be that the crown could nominate and appoint to the see; but would any one contend, if, under the *congé d'élire*, the dean and chapter, instead of electing Dr. Hampden, had elected any of the gentlemen for whom he now appeared, and who had been referred to in such complimentary terms by one of the counsel on the other side, that the election would not be a good one if the crown afterwards accepted of it, and that the person elected would not be, to all intents and purposes, Bishop of Hereford, though not named in the letter missive?

Lord DENMAN.—Are the *congé d'élire* and letter missive set forth in the affidavits?

\* See Confirmation of the Election, p. 44.

The ATTORNEY-GENERAL.—They are not, my lord, but they are no doubt in the ordinary form given by Gibson.

Dr. ADDAMS said he read the documents because they had been already referred to by the Solicitor-General. He would now come to a curious case given in Charles Leslie's "Case of the Regale," p. 106.\* It was as follows :—

"The instances which Mr. Prynne has collected of bishops chosen by the clergy without the King were in the Popish times. And he tells us likewise that the Kings took this ill, and sometimes proceeded to punish these Bishops by seizing their temporalities, and making them compound, &c.

"There is another record I have met with ; that is, an inscription now to be seen in the parlour of the hospital at Ledbury, in Herefordshire, (which, for the satisfaction of the reader I have hereunto annexed,) wherein is told that Hugh Foliot, Bishop of Hereford, the founder of that hospital, 'was elected by the Presbytery of the Cathedral Church of Hereford in October, an. Dom. 1219, without letters from the King, written to the prejudice of their free election, (even as it is testify'd of Robert Foliot, to have been chosen before him, in the year of our Lord, 1173.) He liv'd Bishop in the reign of King Henry the 3d, &c.'

"Mr. Prynne in his Records, vol. ii. p. 355, shews that this same Hugh Foliot was Archdeacon of Shrewsbury, and then recommended by K. John to the Bishoprick of St. David's, which it seems was rejected, for his name stands not in the list of the Bishops of St. David's, but is amongst the Bishops of Hereford ; so that he was refus'd by the Clergy of St. David's, to whom he had the King's recommendation, and chosen by those of Hereford without it, which, as before shewn, they thought a prejudice to, their free election.

"It was here taken notice of, that the form of the *congé d'élire* in those days (as in the records produc'd by Prynne) was not by way of command to the Clergy, as now, but of request and desire only. The King called it his petition to the Clergy, and besought them to lend a favourable and benign ear to it. *Vt huic petitioni mea favorem præbeat benignum* was the form then in use, and shews plainly where the right of election lay.

"And likewise the force of prescriptions, which in time grew up to create a right, and construe petition to mean command."

But it was said that if the metropolitan to whom the mandate of the crown was directed, made any inquiry before proceeding with the confirmation and consecration, he infringed on the supremacy of the crown. This was supposing the supremacy of the crown to be very different from what he had always considered it to be. Those who contended for that view of the case, supposed that the crown was, to all intents and purposes, in the position of the person formerly denominated by the Pope. If that were so, however, the crown would claim, and have the right, not only of naming, but of making and consecrating bishops, and consequently, her Majesty Queen Victoria would be what the papists contended that Queen Elizabeth was—neither more or less than a woman pope. But the crown itself had constantly disclaimed any such construction being put upon its supremacy ; and before proceeding further, it was important to see what the supremacy of the crown really was. A work had been published in the course of the last year, entitled "The Royalty of the Crown in Episcopal Promotions, according to the judgment of Divines, Canonists, and others of the Church of England."

The ATTORNEY-GENERAL : By whom was it written ?

Dr. ADDAMS said, he did not know who the compiler was, but it contained nothing except extracts from authorities, and he had compared some of these extracts himself with the originals, and found them to be word for word the same. The first extract which he would read was from Hooker's Ecclesiastical Polity, book viii. cap. 7, vol. iii. p. 254:—

"Touching the advancement of prelates unto their rooms by the king; whereas it seemeth in the eyes of many a thing very strange that prelates, the officers of God's own use

\* New edition, 1828, pp. 68, 69.

tuary, than which nothing is more sacred, should be made by persons secular, there are that will not have kings be altogether of the laity, but to participate that sanctified power which God hath endued his clergy with, and that in such respect they are anointed with oil. A shift vain and needless. Forasmuch as, if we speak properly, we *cannot* say kings do *make*, but that they do *place*, bishops. For in a bishop there are these three things to be considered: the power whereby he is distinguished from other pastors; the special portion of the clergy and people over whom he is to exercise that bishoply power; and the place of his seat or throne, together with the profits, pre-eminences, honours thereunto belonging. The first every bishop hath by *consecration*; the second his election investeth him with; the third he receiveth of the king alone. With *consecration* the king intermeddleth not further than only by his letters to present such an elect bishop as shall be consecrated. Seeing, therefore, that none but bishops do consecrate, it followeth that none but they only do give unto every bishop his being."

It clearly followed that the prelate who consecrated must also have the power of examining as to the fitness of the person to be consecrated.

LORD CHIEF JUSTICE: The terms made use of are, "He is to examine and try;" nothing can be stronger.

DR. ADDAMS: Just so. In the ordination of deacons and priests the archdeacon is required to make a similar examination of the strictest kind, and the bishop afterwards, when a call for objectors has been duly made, says:—"Brethren, if there be any one who knoweth any impediment or any notable crime against their being admitted to the order of deacons, let him come forward and show what that crime or impediment is." The same words are used in the ordination of a priest, *mutatis mutandis*, but though he is told in the collect not to lay hands suddenly on any man, still he is to disobey that injunction in the consecration of a bishop, and to lay hands suddenly on him without inquiry or examination as to his fitness. The learned doctor read the form of proceeding in the consecration of a prelate, and then continued to say, that his next quotation would be from a very high authority, Bishop Andrewes, in his famous work, "De Tortura Torti," page 380, of the London edition of 1609:—

"Atque vt semel defungar totà hac de Primatu Regio quæstione, semel vt constet Primatus apud nos quæ iura sint, quid illius nomine intelligendum veniat; atque ita cesset vestra dehinc, cesset aliorum calumnia de vestro, et à vobis conficto, non nostro, et à nobis agnito Primatu: paucis sic accipe sententiam nostram.

"Primò, sub primatus nomine Papatum nouum Rex non inuehit in Ecclesiam; sic enim statuit, vt non Aaroni pontifici, ita nec Ieroboamo Regi ius vllum esse, conflatum à se vitulum populo proponendi vt adoret (id est) non vel fidei nouos articulos, vel cultus diuini nouas formulas procudendi.

"Neque verò id agit Rex, ne patitur quidem, vt sibi potestas sit, vel incensum adolendi cum Ozià, vel arcam attrahendi cum Ozià, quod vos toties tam odiosè inculcatis.

"Vestrum illud (quod ad primatum pontificium propriè pertinere dicitis) docendi munus, vel dubia legis explicandi, non assumit, non vel conciones habendi, vel rei sacræ præiudici, vel sacramenta celebrandi; non vel personas sacrandi, vel res; non vel clauium ius, vel censuræ. Verbo dicam; nihil ille sibi, nihil nos illi fas putamus attingere, quæ ad sacerdotale munus spectant, seu potestatem ordinis consequuntur. Omnino vestra hæc calumnia est, in odium conficta, et Regis, et nostrum: Regis, quòd ille sibi hæc arroget; nostrum quòd nos illi ista tribuamus. Procul hæc habet Rex; procul à se abdicat."

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\* "And that I may at once settle the whole of this question concerning the Royal Supremacy; that it may at once be evident what in our view are the rights of supremacy, and what comes to be understood under its name; and that thus from henceforward a stop may be put to the calumny of you and others concerning the supremacy which is yours and invented by you, not ours and acknowledged by us: receive my opinion in a few words as follows. In the first place, under the name of Supremacy the king has not imported a new popedom into the church; for he has so ordained that as not to Aaron the high-priest, so neither to Jeroboam the king, was there any right of proposing for the worship of the people a calf made by himself, (that is) of framing new articles of faith or new forms of divine worship. For the king neither attempts, nor even suffers, that his should be the power either of burning incense with Uzziah, or of touching the ark with Uzza, which all you so odiously inculcate. He assumes not that office, you talk of, (which you say properly



Their lordships would see that Bishop Andrewes, so far from assuming any power of consecration in the crown, such as that of the Pope, directly denounced that doctrine as odious. His next authority would be from Bishop Stillingfleet on *Ecclesiastical Jurisdiction*, vol. ii., p. 95 :—

“To prevent mistakes and cavils about this matter, it will be necessary to clear the notion of supremacy, as it hath been owned and received in the Church of England.

“And for this we have two authentic declarations of it to rely upon.

“The first is mentioned, 5 Eliz. c. 1, s. 14, where supremacy is declared to be taken and expounded in such form as is set forth in the admonition annexed to the Queen's Injunctions, published in the first year of her reign. And the words there are, that the queen neither doth nor will challenge any authority, but such as was of ancient time due to the imperial crown of this realm, that is, under God to have the sovereignty and rule over all manner of persons born within these her realms, dominions, and countries, of what estates, either ecclesiastical or temporal, soever they be, so as no other foreign power shall or ought to have any superiority over them.

“The second is in the 37th Article, wherein it is declared, that by the supremacy is meant that only prerogative which we see to have been always given to all godly persons in Holy Scriptures by God himself, that is, that they should rule over all estates and degrees committed to their charge by God, whether they be ecclesiastical or temporal, and restrain with the civil sword the stubborn and evil doers.

“So that granting a commission for proceeding by ecclesiastical censures is no part of that supremacy which our Church owns; and thus the divines of our church have understood it. By the supremacy, saith Bishop Andrewes, we do not attribute to the king the power of the keys, or ecclesiastical censures.

“R. Thompson, in his *Defence against Becanus*, saith, the supremacy is not to be defined by ecclesiastical jurisdiction, but by supreme government.

“Becanus urged this as an argument against the king's supremacy, that he had no ecclesiastical jurisdiction. Dr. Burrhil answered, that the supremacy implied many other things, as the power of calling convocations, of confirming canons, of giving commissions of delegates, of taking cognizance of the misdemeanors of churchmen (as well as others); but for proper ecclesiastical jurisdictions, he denies it to belong to supremacy; and after asserts, that the king's supremacy is preserved, if he takes care that those who have the power of ecclesiastical censures do exercise them; and not as though it belonged to the supremacy to give an immediate power to proceed by ecclesiastical censures, which was not supposed to belong to it, but a supreme right of governing all sorts of persons by our laws.

“The king's supremacy in ecclesiastical matters doth not, saith Mason, imply the power of the keys, which the king hath not; but he may command those who have them to use them rightly.

“All these wrote in king James I. his reign, when the point of supremacy was thoroughly sifted on both sides. And the king himself, who very well understood these matters, saith, that the oath of supremacy only extended to the king's power of judicature over all persons, as well civil as ecclesiastical, excluding all foreign powers and potentates to be judges within his dominions. Not as though the king hereby challenged to himself a power of inflicting ecclesiastical censures on persons; but leaving the spiritual jurisdiction to those who have the power of the keys, it belonged to him to exercise his supreme authority over ecclesiastical persons and causes, as he did over temporal. For, saith Archbishop Bramhall, our laws never invested the king with any spiritual power or jurisdiction. Witness the Injunctions of Q. Eliz.; witness the public Articles of our Church; witness the professions of King James; witness all our statutes themselves.

“The king of England, saith he, by the fundamental constitution of the monarchy, hath plenary power, without the licence or help, or concurrence of any foreign prelate or potentate, to render final justice, that is, to receive the last appeals of his own subjects, without any fear of any review from Rome, or at Rome, for all matters ecclesiastical and temporal; ecclesiastical by his bishops, temporal by his judges.

“And thus our laws were in the right when they called the Act of Supremacy restoring the rights of the crown; for if we take away all the papal usurpations as to appeals,

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belongs to the supremacy of pontiffs) of teaching, or of explaining doubtful points of law, or of holding assemblies, or of presiding over sacred matters, or of celebrating sacraments; or of consecrating either persons or things; or the right of the keys or of censure. In a word, nothing does he himself, nothing do we consider him to have a right to meddle with that belongs to the sacerdotal office, or is consequent upon the power of the order. This is altogether your calumny, invented for the purpose of bringing odium both upon the king and us: upon the king, that he arrogates these things to himself; upon us, that we bute them to him. These the king keeps aloof from him and disclaims.”

exemptions of persons, dispensations, provisions, making canons, sending legates to hold courts, to call convocations, &c., we may easily understand what the supremacy is, viz. a power of governing all sorts of men, according to the laws ecclesiastical and temporal, without any foreign jurisdiction.

"But as in temporal matters the king's supreme authority is exercised in his ordinary courts, so likewise in ecclesiastical, which deriving their jurisdiction from the king as supreme, his supremacy is preserved in the ordinary ecclesiastical courts."

In the work of Francis Mason, "*Vindiciæ Ecclesiæ Anglicanæ*," a supposed dialogue between a priest of the church of Rome and a priest of the church of England, the following passage occurs:—

"The objections of the papists, that our bishops are the queen's bishops, and parliament bishops, answered, in general, by explaining our method of making bishops.

"**PHILODOXUS** (a priest of Rome.)—Your new pretended bishops (as Scultingius saith) derive their counterfeit authority, not from lawful consecration, or catholic inauguration, but from the queen and parliament. They are therefore properly styled, by Sanders, the queen's bishops, and parliament bishops. For (as Bristow relates) in England the king, yea and the queen, grants letters patent to whom they will; and they thenceforth bear themselves for bishops, and begin to ordain ministers. Hence Bellarmine had reason to say, that in Queen Elizabeth's time there was a woman pope in England.

"**ORTHODOXUS** (a priest of the Church of England.)—These saucy shameless papists proclaim aloud, that the bishops of the Church of England derive not their order from bishops, but from kings and queens. A monstrous lye, and an impudent slander! For our kings do that only which belongeth to the office of kings, and our bishops to that of bishops. For 'at every avoidance of any archbishoprick or bishoprick, the king grants to the dean and chapter of that church a licence under the great seal of England (which is commonly called the *congé d'élire*) to proceed to election, with a letter missive (as it is call'd) containing the name of the person which they shall elect and chuse. Then the electors do certify under their common seal (the election to be duly perform'd) to the king (humbly beseeching him to grant his royal assent thereto.) The king (giving his assent to their election) signifieth the same to the archbishop and bishops, requiring and commanding them by his royal authority to confirm the said election, and to invest the said person so elected, and to give and use to him all such benedictions, ceremonies, and other things requisite for the same.' After this, the archbishop and bishops, following the example of their predecessors, take care, publickly and peremptorily, to cite all manner of persons, who have anything to say or object, either against the form of the election, or the person elected, in general, or particular, personally to appear before them. And when it appears solemnly, and judicially, by publick acts, both that the election is valid, and the person elected of sufficient learning and probity, then at last follows the consecration; which is performed by a competent number of lawful bishops, according to the direction of the ancient canons. This is the solemn and constant method of making bishops in England."

**IDEM**, book IV. chap. xiii. p. 431 to 432.

"**PHIL.**—You pretend to treat of kings electing bishops, and conferring of bishoprics: and now you ascribe not the election to kings, but to the clergy, and claim only nomination for kings.

"**ORTH.**—The king's nomination is with us a fair beginning of the election. Therefore, when he nominates any person, he elects him, and gives, as I may say, the first vote for him.

"**PHIL.**—What kind of elections are these of your deans and chapters? 'Tis certain, they can't be called free elections, since nothing is to be done without the king's previous authority.

"**ORTH.**—The freedom of election doth not exclude the king's sacred authority, but force and tyranny only. If any unworthy person should be forced upon them against their wills, or the clergy should be constrained to give their voices by force and threatening, such an election cannot be said to be free. But, if the king do nominate a worthy person according to the laws, as our kings have used to do, and give them authority to chuse him, there is no reason why this may not be call'd a free election. For here is no force, nor violence us'd.

"**PHIL.**—But if the king, deceiv'd by undeserved recommendations, should happen to propose to the clergy a person unlearned, or of ill morals, or otherwise manifestly unworthy of that function, what's to be done then?

"**ORTH.**—Our kings (Philodox) are wont to proceed in these cases maturely and cautiously; I mean, with the utmost care and prudence: and hence it comes to pass that the Church of England is at this time in such a flourishing condition.

“PHIL.—Since they are but men, they are liable to humane weakness : and, therefore, what is to be done, if such a case should happen ?

“ORTH.—If the electors could make sufficient proof of such crimes or incapacities, I think it were becoming them to represent the same to the king with all due humility, modesty, and duty; humbly beseeching his majesty, out of his known clemency, to take care of the interest of the widowed church. And our princes are so famous for their piety and condescension, that I doubt not but his majesty would graciously answer their pious petition, and nominate another unexceptionable person, agreeable to all their wishes. Thus a mutual affection would be kept up between the bishop and his church.

“Thus I have show'd you, that our kings have had a singular prerogative in the election of bishops : and now I am to prove that they had the same lawfully. And that will be manifest enough, whether we consider the kings themselves, or the bishops. This privilege belongs to kings by a twofold right; to wit, in right of their sovereignty, and in right of their patronage.”

The Lord Chief Justice intimated that the court would hear the remainder of the learned doctor's argument at the sitting of the court the next day.

### THIRD DAY,

WEDNESDAY,—JANUARY 26.

Dr. ADDAMS resumed his argument in this case. He had yesterday directed their Lordships' attention to the consideration of the question whether the supremacy of the crown in the matter of the appointment of the bishops was not a supremacy of jurisdiction alone. He should now continue his observations on that point, which he hoped to be able to establish to the satisfaction of their Lordships. What was a confirmation? On principle, and in practice, he submitted that it was a judicial act. It certainly was so by the canon law as it existed before the period of the Reformation. It had so continued since, for that part of the canon law was adopted at the Reformation, and was consequently now a part of the common law of this country. The judicial nature of the act was implied in the meaning of the word confirmation, taken in a forensic sense. It was the establishment of something by proof. In the case of the confirmation of a bishop, it was the establishment by proof of his fitness, in respect that he was a godly, devout, learned, and pious clergyman. But the establishment of everything by proof was a judicial act. If so, that disposed of the first objection raised by the Attorney-General to the issuing of this *mandamus*, founded on the objection that the act of confirmation was a merely ministerial, and not a judicial act, and that it was a ministerial act which the metropolitan had no choice but to perform, under the directions of the statute. That, however, depended entirely on the question, what was the true construction of the statute? He admitted that if this act on the part of the archbishop was a mere ministerial act, and that he would incur the dangers of a *præmunire* if he did not go on with the performance of it under the mandate from the crown, then no *mandamus* ought to issue. But such was not the case. That was the sole substantial objection to the issuing of a *mandamus* in this case. The applicants asked for it, as they had been barred of their right to appear and be heard on their objections to the confirmation, in consequence of the misconstruction by the ecclesiastical judge of the provisions of an act of Parliament. The statute had been misconstrued. The act had but one object, and that was to defeat the claim set up by the Court of Rome to interfere in the confirmation of the election of bishops, and by that

to secure to the Pope the nomination of the bishops, or at all events to take away from the crown the power of making any appointment which to the Court of Rome should seem objectionable. This claim was set up by the Court of Rome, if for no other purpose, at least for that of extracting large sums of money from persons who had been elected to bishoprics.

The statute in question was passed to put an end to that practice. It was, entitled "An Act for non-payment of first fruits to the Bishop of Rome." The fourth, fifth, sixth, and seventh sections were those which chiefly related to this matter, as they treated especially of the manner of the election.

IV. And furthermore be it ordained and established by the authority aforesaid, that at every avoidance of every archbishopric or bishopric within this realm, or in any other the king's dominions, the king our sovereign lord, his heirs and successors, may grant to the prior and convent, or the dean and chapter of the cathedral churches or monasteries, where the see of such archbishopric or bishopric shall happen to be void, a licence under the great seal, as of old time hath been accustomed, to proceed to election of an archbishop or bishop of the see so being void, with a letter missive, containing the name of the person which they shall elect and choose. (2.) By virtue of which licence the said dean and chapter, or prior and convent, to whom any such licence and letters missive shall be directed, shall with all speed and celerity in due form elect and choose the same person named in the said letters missive, to the dignity and office of the archbishopric or bishopric so being void, and none other. (3.) And if they do delay their election above twelve days next after such licence or letters missive to them delivered, that then for every such default the king's highness, his heirs and successors, at their liberty and pleasure, shall nominate and present by their letters patents under their great seal, such a person to the said office and dignity so being void, as they shall think able and convenient for the same. (4.) And that every such nomination and presentment to be made by the king's highness, his heirs and successors, if it be to the office and dignity of a bishop, shall be made to the archbishop and metropolitan of the province where the see of the same bishopric is void, if the see of the said archbishopric be then full, and not void; and if it be void, then to be made to such archbishop or metropolitan within this realm, or in any the king's dominions, as shall please the king's highness, his heirs or successors. (5.) And if any such nomination or presentment shall happen to be made for the fault of such election to the dignity or office of any archbishop, then the king's highness, his heirs and successors, by his letters patents, under his great seal, shall nominate and present such person as they shall dispose to have the said office and dignity of archbishopric being void, to one such archbishop and two such bishops, or else to four such bishops within this realm, or in any of the king's dominions, as shall be assigned by our said sovereign lord, his heirs or successors.

V. And be it enacted by the authority aforesaid, that whensoever any such presentment or nomination shall be made by the king's highness, his heirs or successors, by virtue and authority of his act, and according to the tenor of the same; that then every archbishop and bishop to whose hands any such presentment and nomination shall be directed, shall with all speed and celerity invest, and consecrate the person nominate and presented by the king's highness, his heirs or successors, to the office and dignity that such person shall be so presented unto, and give and use to him pall, and all other benedictions, ceremonies, and things requisite for the same, without suing, procuring, or obtaining hereafter any bulls, or other things at the see of Rome, for any such office or dignity in any behalf. (2.) And if the said dean and chapter, or prior and convent, after such licence and letters missive to them directed, within the said twelve days, do elect and choose the said person mentioned in the said letters missive, according to the request of the king's highness, his heirs or successors, thereof to be made by the said letters missive, in that behalf, then their election shall stand good and effectual to all intents. (3.) And that the person so elected, after certification made of the same election, under the common and covent seal of the electors, to the king's highness, his heirs or successors, shall be reputed and taken by the name of lord elected of the said dignity and office that he shall be elected unto. (4.) And then making such oath and fealty only to the king's majesty, his heirs and successors, as shall be appointed for the same, the king's highness, by his letters patents under his great seal, shall signify the said election, if it be to the dignity of a bishop, to the archbishop and metropolitan of the province where the see of the said bishopric was void, if the see of the said archbishop be full and not void; and if it be void, then to any other archbishop within this realm, or in any other the king's dominions; requiring and commanding such archbishop to whom any such signification shall be made, to confirm the said election, and to invest and consecrate the

said person so elected to the office and dignity that he is elected unto, and to give and use to him all such benedictions, ceremonies, and other things requisite for the same, without any suing, procuring, or obtaining any bulls, letters, or other things from the see of *Rome*, for the same in any behalf. (5.) And if the person be elected to the office and dignity of an archbishop according to the tenor of this act, then after such election certified to the king's highness in form aforesaid, the same person so elected to the office and dignity of an archbishop, shall be reputed and taken lord elect to the said office and dignity of an archbishop, whereunto he shall be so elected. (6.) And then after he hath made such oath and fealty only to the king's majesty, his heirs and successors, as shall be limited for the same, the king's highness, by his letters patents under his great seal, shall signify the said election to one archbishop and two other bishops, or else to four bishops within this realm, or within any other the king's dominions, to be assigned by the king's highness, his heirs or successors, requiring and commanding the said archbishop and bishops, with all speed and celerity, to confirm the said election, and to invest and consecrate the said person so elected to the office and dignity that he is elected unto, and to give and use to him such pall, benedictions, ceremonies, and all other things requisite for the same, without suing, procuring, or obtaining any bulls, briefs, or other things at the said see of *Rome*, or by the authority thereof in any behalf.

VI. And be it further enacted by authority aforesaid, that every person and persons being hereafter chosen, elected, nominate, presented, invested, and consecrated to the dignity or office of any archbishop or bishop within this realm, or within any other the king's dominions, according to the form, tenor, and effect of this present act, and suing their temporalities out of the king's hands, his heirs or successors, as hath been accustomed, and making a corporal oath to the king's highness, and to none other, in form as is afore rehearsed, shall and may from henceforth be thronized or installed, as the case shall require; (2.) and shall have and take their only restitution out of the king's hands, of all the possessions and profits, spiritual and temporal, belonging to the said archbishopric or bishopric whereunto they shall be so elected or presented, and shall be obeyed in all manner of things, according to the name, title, degree, and dignity that they shall be so chosen or presented unto, and do and execute in every thing and things touching the same, as any archbishop or bishop of this realm, without offending the prerogative royal of the crown and the laws and customs of this realm, might at any time heretofore do.

VII. And be it further enacted by the authority aforesaid, that if the prior and convent of any monastery, or dean and chapter of any cathedral church where the see of an archbishop or bishop is within any the king's dominions, after such licence as is afore rehearsed, shall be delivered to them, proceed not to election, and signify the same according to the tenor of this act, within the space of twenty days next after such licence shall come to their hands; (2.) or else if any archbishop or bishop within any the king's dominions, after any such election, nomination, or presentation, shall be signified unto them by the king's letters patents, shall refuse, and do not confirm, invest, and consecrate with all due circumstance as is aforesaid, every such person as shall be so elected, nominate or presented, and to them signified as is above mentioned, within twenty days next after the king's letters patents of such signification or presentation shall come to their hands; (3.) or else if any of them, or any other person or persons, admit, maintain, allow, obey, do or execute any censures, excommunications, interdictions, inhibitions, or any other process or act, of what nature, name, or quality soever it be, to the contrary, or let of due execution of this act; (4.) that then every prior and particular person of his convent, and every dean and particular person of his chapter, and every archbishop and bishop, and all other persons, so offending and doing contrary to this act, or any part thereof, and their aiders, counsellors, and abettors, shall run into the dangers, pains, and penalties of the estatute of the provision and *præmunire* made in the five and twentieth year of the reign of king *Edward III.*, and in the sixteenth year of king *Richard II.*

It was curious that in the first of these sections confirmation was never mentioned. Nor need there be any mention of it in that part of the act; but it did not therefore follow that the metropolitan was obliged to consecrate with all speed a man into whose fitness for the office he had no means of inquiring. His making the inquiry was no more an interference with the prerogative of the crown than was inquiry concerning the fitness of a man presented by the crown to any living within his diocese. What would be done if the metropolitan should think that he could not proceed to confirm? It was said that there could not be a fresh election, for that the election under the letter missive was by the act made "good for all intents and effects," and therefore could not be set aside. But surely that was a most unreasonable interpretation of the statute. The act of elec-



was but an inchoate act. That was shown in the case of *Evans v. Ascuthe*. It had been represented that Dr. Hampden, even if not consecrated, would still be the lord elect of Hereford, and must so remain during his life. Try that proposition in another instance: suppose a Dr. P. elected to a bishopric, and between the time of the election and the consecration the bishop-elect should be reconciled to the Church of Rome—could it be said that still the election was good to all intents and effects, and that the elected person would remain during life the bishop of the see? Suppose, again, that the person elected should become insane, what would be the case then? Must the archbishop still consecrate him—must he consecrate a person brought before him by a keeper, and in a strait waistcoat? Would he incur a *præmunire* if he did not consecrate him? Would such a person still remain a bishop, and could there be no other bishop of that see during his life, as the election was “good to all intents and effects?”

But then it was said that under the act the king gave his commands to the archbishop to confirm and consecrate the bishop. But he repeated, what was confirmation? It was a judicial act. The king therefore gave his commands for the performance of a judicial act. It was as much a judicial act as consecration was a spiritual act. Well, then, the archbishop being required to do the judicial act of confirmation, he was to proceed of course, *ritè et solemne*, according to the mode practised both before and since the Reformation—and his duty in that respect was an answer to anything that might be said as to the interference with the supremacy of the crown. After these things had been done, then the person elected was to be admitted. Then followed the seventh section of the statute, and on that it was plain that no danger of *præmunire* was incurred, unless something was done in derogation of the rights of the crown, and in favour of the Pope. There might still be exceptions to the persons electing and the person elected. There was an instance of that being done in one case, and he should show another; and in neither of these cases was it thought for a moment that the parties were in any degree incurring the danger of a *præmunire*. So that what he contended, was not only the reasonable interpretation of the act, but it was that one which was justified by the practice—a practice which settled the construction that was to be put upon the act. In Mason’s “*Vindiciæ Ecclesiæ Anglicanæ*” \* was a passage which bore out his view of the matter as to what was the practice. It was to this effect:—

“After this the archbishop and bishop, following the example of their predecessors, take care, publicly and peremptorily, to cite all manner of persons who have anything to say or object, either against the form of the election or the person elected, in general or particular, personally to appear before them. And when it appears solemnly and judicially, by public acts, both that the election is valid, and the person elected of sufficient learning and probity, then at last follows the consecration, which is performed by a competent number of lawful bishops, according to the direction of the ancient canons. This is the solemn and constant method of making bishops in England.”

But there was nothing said in that book of the danger of a *præmunire* being incurred by the archbishop entering upon this judicial inquiry.

LORD DENMAN,—Who was Francis Mason?

MR. BADELEY answered that he was a clergyman, and prebend of Westminster, a man of great learning, and a great authority on the subject.

\* *Vindiciæ Ecclesiæ Anglicanæ*; or, Vindication of the Church of England, and of the Lawful Ministry thereof, i. e. of the Succession, Election, and Consecration of Bishops. By FRANCIS MASON. London, 1625. Translated into English by John Lindsey. London, 1734.

Dr. ADDAMS continued:—The act must receive a general construction. Though the people, diocesan, and clergy all appeared to be excluded from taking any active part in the confirmation, it was clear that that was not in the sense of excluding them from taking what they fairly deemed to be good exceptions to the consecration. Their right to do this appeared to be derived from the earliest authorities. In Archbishop's Potter's valuable Discourse on Church Government, it was shown that the power of the crown was not in his day admitted to be of the character now ascribed to it by the Attorney-General and the Solicitor-General. Archbishop Potter (ch. v.) went into the history of the appointment and consecration of bishops, and after describing them as persons selected because they were filled with the spirit of the Holy Ghost, he proceeded to quote from the Apostolical Constitutions, to show how they were installed into office.

“Many more examples might be produced, especially in the following centuries, where the accounts of ecclesiastical affairs are more large and particular, than in the first; but my design being chiefly to describe the practice of the three first ages, I shall only set down one later testimony from the Apostolical Constitutions, where Peter is introduced making the following decree: ‘I, Peter, do affirm, that a bishop must be ordained, as was appointed by all of us before, one who is blameless in all things, elected by the people for his eminent merit. Such a person being named, and content to undertake the office, let the people, assembled on the Lord's day, with the college of presbyters, and such of the bishops as are present, approve him: let the chief person of the assembly ask the college of presbyters and the people, whether this be the person whom they desire to have for their ruler? Then let him ask, whether they do all attest, that he is worthy of this great and eminent principality? whether he has been pious towards God, and just to men; has managed his own house well, and has been of an unblameable conversation? Then the people having all attested this of him, let them be asked a third time, whether he is worthy of this ministry? And if they do all assent the third time, let them be desired to hold up their hands, in token of their approbation. Which being readily done,’ he directs the bishops to proceed to his ordination.” (Apostol. Constitut. lib. viii. cap. 4.)

That work (the Apostolical Constitutions) was now known not to be genuine, but still it was valuable, as showing what were the notions of that age upon the subject. The learned doctor here read another extract which spoke of the elections of bishops being at first made by the people on account of the most eminent merits of the persons elected:—

“From what has been said, it appears to have been the most general practice, for bishops and other church-officers to be approved, both by clergy and people, before they can be ordained. Nevertheless there are examples, where the people's concurrence in the choice of their ministers was not asked. Besides those which were before mentioned, we find it plainly supposed in the Apostolical Canons, that bishops were sometimes promoted without the people's consent: for it is there decreed, ‘that if the people of any city should refuse to accept their bishop, he shall remain bishop: but the clergy shall be excommunicated, for having instructed them no better in their duty.’ (Apost. Can. xxix.) And in the council of Ancyra, which was held ten years before the great council of Nice, there is also mention made of bishops constituted over dioceses, which would not receive them: (Concil. Ancyran. Can. xviii.) which manifestly implies, that they were ordained without the consent of those dioceses. In many of the forementioned instances, where the people are said to concur, it seems to have been done more for the sake of their testimony concerning the behaviour of those who were to be obtained, than that their consent was thought necessary on any other account. And it deserves to be observed, that Alexander the emperor, who publicly propounded the names of those whom he intended to set over provinces, in imitation of the Christian election of priests, reserved the nomination wholly to himself, allowing the people nothing farther than the liberty of alleging crimes against them. And Aaron and other Jewish priests, whose consecrations before the congregation are produced by some of the fathers, as examples for the Christians to follow in making bishops, were not appointed to their office by the people, but by God. So that one of the chief ends, for which the people were present at the promotion of church-officers, was to attest the piety and good behaviour of the persons to be promoted. In places where the people had a share in electing their bishops, their election was void, unless it was approved not only by their own clergy, but by the neighbouring bishops. For when Narcissus, bishop of Jerusalem, withdrew himself from his diocese, we are told, that the bishops

neighbouring cities agreed to ordain Dius in his stead. Some time after this, Narcissus returned from the wilderness, where he had concealed himself, and was reinstated in his bishopric by the consent of all parties; but he becoming, through his great age, wholly unfit to execute his episcopal office, the Christians of Jerusalem prevailed upon Alexander, bishop of Cappadocia, to undertake the care of their church, as the coadjutor of Narcissus, during his life, and afterwards to be their sole bishop: but this was not done, till the bishops of the neighbouring cities had first consented. (Eusebius Eccles. Hist. lib. vi. cap. 10.) Sometimes the churches of greater cities elected for their bishops, those who were bishops of lesser cities before: yet such persons were not allowed to change their dioceses, unless it was judged to be for the public benefit of the church κρίσει πολλῶν ἐπισκόπων, by the judgment of many bishops, as we find decreed in the Apostolical Canons. (Apost. Can. xi.) So that the neighbouring bishops at this time had authority to disannul the elections made by the people and clergy of any city, even when the bishop elect wanted not ordination. But at other times, where mere presbyters were elected, it is manifest, the bishops had power to make the election void, because they could refuse to ordain them. The same may be said of priests and deacons, that how far soever the people had an interest in choosing persons to be admitted into those orders, what they did was never of the least force without the bishop's concurrence, because it was wholly in his power to ordain them, or not. In the sixth canon of the council of Nice, cited in the last chapter, it is ordered, 'that bishops shall be elected by the majority of voices, and if two or three dissent from the rest, they shall be concluded by the majority.' Who were the electors here meant, is not expressed: but it seems not reasonable to think, they were the people of the vacant diocese, because there could never be the least colour to pretend, that any two or three private men should vacate the election of a whole church, which would have made elections almost impossible; and therefore it is not likely any canonical provision should be made against it. So that we may reasonably conclude, these electors were the bishops of the province where the vacant diocese lay: especially since it is decreed by this canon, that the metropolitan should have a negative voice in the appointment of all bishops within his province. And it is ordered by the fourth canon of this council, 'that when any bishop was to be ordained, all the bishops of the province where the vacant diocese lay, should come together to ordain him: and if some of them could not come, at least three should ordain him, and the rest signify by their letters, that they approved the person, and that all should be ratified by the metropolitan.' (Concil. Nicæn. Can. iv.) Whence it is manifest, that the consent of the metropolitan, and the majority of the comprovincial bishops was then required to the appointment of any bishop, before he could be ordained. And in the following ages, when the popular elections of bishops occasioned tumults, which sometimes ended not without open acts of violence, and even bloodshed; to remedy this inconvenience, in some places the clergy, in others the emperors, named bishops. From all which together we may conclude, that the power of appointing bishops and church-officers to exercise their functions in particular districts, is a thing of a mixed nature, and has never been wholly and constantly appropriated to any one sort of men, whether clergy or laity; but was lodged sometimes in one hand, and sometimes in another, as the times and other circumstances would best bear."—*Potter's Discourse on Church Government*, chap. v.

This, the learned doctor contended, showed that the appointment of bishops was a thing of a mixed nature, and never wholly or constantly vested in one sort of men whether clergy or laity, but that it varied in different times and circumstances. Still he contended that the confirmation was a judicial act, as was shown in Bishop Mountague's case, quoted in several previous parts of this argument, from Burn's Ecclesiastical Law. Many comments had been made on that statement of Burn.

LORD DENMAN,—Does it appear what authority Rives had then for saying that the objection must be made in writing?

DR. ADDAMS,—That of the ordinary practice of the court.

THE ATTORNEY-GENERAL,—Or for saying that the objector must appear by a proctor?

MR. JUSTICE ERLE,—Is that so? May he not appear in person?

DR. ADDAMS,—He may.

MR. JUSTICE ERLE,—Then Rives is wrong in one ground of his statement, and he cannot shelter himself under the statute.

LORD DENMAN,—But he did shelter himself under a wrong statement of the practice.



MR. JUSTICE COLERIDGE,—The Solicitor-General referred to another recent case, in which the same reason among others was given.

DR. ADDAMS,—There was a different report of that case of Mountague, and that was in a book written by a person of very high authority. It was in the work “*De Præsulibus Angliæ*,” by Bishop Godwin. In his account of the life of Mountague, he stated the circumstances in a way to show that in his opinion the people and the clergy had a voice in the consecration as well as the appointment, and that in exercising the privileges they thus possessed, there was no reason to believe that in any way they incurred the danger of a *præmunire*. That was the opinion of a bishop and a high churchman. He spoke of the futility of objections, but did not deem that it was a high offence in the law to enter on the consideration of them, but expressly said, “*Episcopi mores laicorum quoque examini subjiuntur*,”—“the morals of a bishop are subjected also to the examination of the laity.”

MR. JUSTICE ERLE,—Is there any other narrative of the transaction, showing that the vicar-general did take these objections into consideration?

THE ATTORNEY-GENERAL said that the parliamentary history showed that he did not.

MR. JUSTICE COLERIDGE,—The parliamentary history does not show that, but it shows that he did not decide in their favour. But has this been looked further into, for I think that the objections to Bishop Mountague were examined into, and that he was cleared from the charge.

LORD DENMAN,—The bishops may have been consulted on such a matter, but it is important to see whether they were so consulted before or after confirmation. It would be very proper, before a *congé d'élire* issued, to ascertain if possible whether there was any ground for such a charge.

MR. JUSTICE COLERIDGE,—The objection there was not Arminianism, but the entertaining of too high notions of the real presence.

DR. ADDAMS,—The objections seemed to have been taken into consideration, without any fear of a *præmunire* being incurred, and that was all that was important for the purpose of this argument. In another and a very recent case this same question had arisen. In the case of the controversy respecting the admission of Dr. Lee to the see of Manchester, there was a writ of commission from the Archbishop of York, and then a commission from the Archbishop of Canterbury, to allow the confirmation to take place within the jurisdiction of his archbishopric. In that case no person was ignorant of the objections that were intended to be raised. What took place? On Mr. Gutteridge presenting himself, he was asked his name, he stated it. He was asked his profession; he said a surgeon. Then his residence; he stated it to be Birmingham; all which was no doubt asked with the intention of drawing from himself the proof that he had no peculiar interest in the appointment, none such as would entitle him to interfere. He was not even an inhabitant of the diocese of which Dr. Lee was about to be made bishop. When these questions had been put and answered, the same learned commissioner asked whether the exceptions had been put into writing, and was answered in the affirmative, and they were tendered. It was then asked whether they had been signed by an advocate, and the answer was in the negative. This somewhat anomalous matter thus concluded. The commissioners said that the proceedings had come to an end, for that the objections were not tendered in due form; but it was added, that had they been so tendered the

would not have entertained them, for all that was obligatory on them was to confirm, under the penalties of *præmunire*, and confirm they did.

Before he went into what took place at Bow Church, he desired to say, that though there was no instance existing on record, with the exception of the case of Mountague, there were vestiges of such objections being prepared in order to be taken, and it was plain from the course of practice that the party presenting such objections would be entitled to enter a *caveat*, and then to take these objections. But the occasion for doing this had not arisen. In the case of Dr. Samuel Clark, notwithstanding his undoubted learning and piety, and the great services he had rendered the church, yet in consequence of a suspicion of Arianism, Archbishop Wake would not consecrate him, and an opposition to him, if he should be nominated to any bishopric, was duly prepared. But there was also another case where the opposition which had likewise been prepared was not made. Dr. Rundle, early in the last century, was expected to be made a bishop. He was that Dr. Rundle of whom Pope, after remarking that Secker was decent, had said that he had a heart. It appeared that early in life he had been connected with Whiston, and it imputed that once in a bookseller's shop he had spoken with some levity of a scripture narrative. Rundle was recommended by Lord Chancellor Talbot to the bishopric of Gloucester. Venn, then a curate in the country, entered a *caveat*, and opposed his election in Bow Church, which he did with the sanction of Bishop Gibson—of that very Gibson who supposed (but certainly wrongly) that a *præmunire* would be incurred by listening to such an opposition and delaying the confirmation of the election beyond the term of twelve days. Gibson incurred some ill will by his conduct in that case, and Rundle's nomination to Gloucester was not persevered in, but he was elected to Derry in Ireland, and so the objections became void.\*

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\* See Bishop Mant's History of the Church of Ireland, vol. ii. p. 537, who gives the following account of this matter:—"On the death of the Bishop of Durham, his son, the Lord Chancellor Talbot, particularly distinguished Dr. Rundle as his friend, and entertained him on the same terms as his father had done, and endeavoured to promote his advancement by a measure which caused him, as Dr. Johnson observed, to become 'unfortunately famous.' For the see of Gloucester having been vacated in December, 1733, he was nominated to it on the Lord Chancellor's solicitation, and publicly announced as the successor, when his preferment was stopped by the interposition of Gibson, Bishop of London. In filling up vacancies in the English episcopate at that time, Bishop Gibson's influence was most powerful; and he refused to sanction the appointment of Dr. Rundle, against whom he had conceived a strong objection, founded on his former connection with Whiston, notorious for his heterodox opinions, and on some sceptical sentiments, vaguely imputed to him by a Mr. Venn, as having been uttered in conversation many years before.

"The editors of Archbishop Secker's works, Bishop Porteus and Dr. Stinton, speaking of the Archbishop's early association with Dr. Rundle, describe the latter as 'a man of warm fancy and very brilliant conversation, but apt sometimes to be carried by the vivacity of his wit into indiscreet and ludicrous expressions, which created him enemies, and on one occasion produced disagreeable consequences.' And in a letter to a friend, Dr. Rundle gives the following description of himself:—"I am an open, talkative man, and not one of my acquaintances ever suspected my disbelief of the Christian religion from any expression that ever dropped from me in the most unguarded hour of vehemence in dispute. I never omitted one opportunity of defending it in private, when the turn of conversation made it decent, or in public, when the disputes of the age made it necessary. I have spoken charges to the clergy, or preached on the most solemn occasions, against Collins, Woolston, Tindal, as multitudes will and have testified. But from a chance conversation, Mr. Venn thinks otherwise. . . . I do not doubt but the Bishop of London thinks me a very bad man, and thinks in opposing me he doth God and the church good service; but it is not me, but the phantom represented to him under my name, that he so vehemently opposes. If he knew me possibly I should have the favour of his esteem and recommendation. only complain that he prefers a tittle-tattle hearsay character from men that have

Lord DENMAN,—In these two cases of Clark and Rundle it does not appear whether they were actually elected. The archbishop had expressed a wish that they should not be elected, and the Queens Mary and Anne were in the habit of consulting the bishops before recommending a person for election.

Mr. JUSTICE COLERIDGE,—May any one enter a *caveat* without a previous application to the court?

Dr. ADDAMS,—He may; and having entered it, he will be entitled to a particular citation. If a *caveat* is not entered, there is only a general citation. The whole of this case of Rundle's is mentioned in a pamphlet of that day, entitled "Memoirs of Dr. Codex."

The SOLICITOR-GENERAL,—It is also stated in the preface to Dr. Rundle's letters.

Mr. JUSTICE COLERIDGE,—Does any book state that the person entering a *caveat* would be entitled to a citation *nominatim*?

Dr. ADDAMS said that that was the ordinary practice of the court. The *caveat* was entered in the name of a proctor. That proctor was afterwards warned by the proctor on the other side, when he would set out his interest in the matter, and nothing would be determined in the case without notice to him. The learned doctor here went back to the question whether the act of confirmation was a ministerial or a judicial act, and insisted that it was judicial, and that the statute had made no difference in its character. When the letters patent came to the archbishop to signify the election, he endorsed them "*Fiat confirmatio*," and then, according to the regular course of proceedings, that judicial confirmation was undertaken by the vicar-general. There was no commission, though it had been said that there was one, and the learned person who had been called a commissioner, sat in reality only as an assessor to the vicar-general. Independently of what took place on the confirmation of Parker, could any one say that the confirmation was not a judicial proceeding? Parker was cited on the previous day to appear. The court was duly held. A proxy was exhibited. The dean and chapter gave in their allegations, persons were cited to oppose, witnesses were examined, and there was a formal and definitive sentence in writing. Surely that was a judicial proceeding. It could not be surely said that the vicar-general was not a judicial authority. He was so; and if he was wrong, the parties aggrieved had a right to come here for a *mandamus* or a prohibition.

The learned doctor here went through a statement of the circumstances which occurred on the confirmation of Dr. Hampden at Bow Church, and the reasons which had been given by the Archbishop's commissioners for refusing to hear the parties opposing, and then observed that it had been said by the Solicitor-General that this claim of opposition was a mockery, a sham, and a shadow. But those words properly applied to the election and not to the confirmation, for that was a reality. Why was not the indignation against shams and shadows confined to those proceedings in

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intimacy with me to the Dean of Christ Church (Dr. Conybeare) whom he loves; to all my acquaintance, whom he hath examined; to the Speaker, whom he cannot but esteem; and the Lord Chancellor, whom every man in England, unless those who are angry on this occasion, loves and esteems, and rejoices in his integrity. . . . If these testimonies on my behalf are insufficient, I am contented to be disregarded, and must submit to an usage that is as unexampled as undeserved.'

"The consequence, however, of the Bishop of London's opposition was, that the bishoprick of Gloucester, which had been designed for Dr. Rundle, was given to his friend Dr. Benson, whom the Bishop of London with much difficulty prevailed on to accept of the dignity. And the influence of the Lord Chancellor was soon afterwards exerted to give for Dr. Rundle the lucrative see of Derry."

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which parties were cited to appear, were promised to be heard if they did appear, and when they did, the promise to them was broken?

LORD DENMAN: I understood the Solicitor-General's declarations of censure to be applied to all these proceedings, not to a part.

THE SOLICITOR-GENERAL: Yes, my lord, to all.

DR. ADDAMS hoped that if that was so, the Solicitor-General would bring in a bill to abolish what he denounced, or else to declare that all confirmations of bishops should take place on the 1st of April, for then their value would be clearly understood, as they stood now they were judicial proceedings.

MR. JUSTICE ERLE: When the statute of Edward VI. put an end to the *congé d'élire*, did it not put an end to the confirmation with it?

DR. ADDAMS said that it did, but even then it did not follow that the metropolitan was not to satisfy himself as to the fitness of the person to be consecrated.

The second objection to the *mandamus* was (and if the objection was valid, it formed a material, and, indeed an insuperable bar to making this rule absolute,) that if it was a judicial act then it was an act in which there was a right of appeal, and consequently not a right to a *mandamus*. But no authority had been given to show that such an appeal existed, and none could be shown. There was no such remedy. If the proceedings in Bow Church had appeared on the face of the record, there would have been such a remedy, but they did not. The appearance of the objector ought to have been recorded, and then he might have had a right of appeal; but as no such circumstance was recorded, there was no right of appeal, and so the second objection was at an end.

The third objection was, that the court in which the exception was tendered, had no means of investigating the subject, added to which, such investigation, if entered on, could not be concluded within twenty days. Perhaps the last allegation might be true, but that did not afford a good reason for rejecting the opposition. A better reason would have been that the opposition was properly matter for consideration under the Church Jurisdiction Act. As to the powers of the vicar-general, they had been mistaken. Oughton's book, *Ordo Judiciorum*, had been referred to, for the purpose of showing that the vicar-general had not a contentious jurisdiction. The words were to be found in the Prolegomena, where at s. 9, under the title "*De Curia Audientiae Cantuariensis*," it was said, "*Auditoris causarum negotiorum que audientiae Cantuariensis officio (quondam) erat conjunctum illud cancellariatûs archiepiscopi.*" So that these two offices were in the old times united in the same person. But in s. 10 his jurisdiction is thus limited, "*Qui cancellarius (sive vicarius in spiritualibus generalis) ea quæ contentiosæ jurisdictionis erant non exercebat;*" he had no contentious jurisdiction except in certain cases thus referred to—"*præterquam quæ pro formâ solummodo ventilantur, utpote negotia confirmationis episcoporum electionis, et similia.*" This showed that his duty was one of mere form. The 11th section went on thus—"Nullus autem, a plurimis ab hinc retroactis annis, extitit audientiae judex, utpote forensis."<sup>\*</sup> It was said, on this statement, that the vicar-general was not a person who held a court of audience to do anything substantial even in the times in which Oughton's work was written, or in those the practices of which were described. But that was a mistake. There was but one rational meaning to be given to this passage, namely, that he had no jurisdiction in that which was commonly not contentious, but which might be

\* See p. 107 for a translation of these quotations.

come so, and when it did there was an end of his particular jurisdiction, and the matter was transferred to the archbishop, who sat with his suffragans and others in his court of audience. Parker's case showed that to be the proper course, and so gave a meaning to the text of Oughton. The proceedings there, were to be found in the 3rd volume of Bramhall's Works, p. 184, as published in the Library of Anglo-Catholic Theology.

The ATTORNEY-GENERAL begged pardon for the interruption, but said he wished to correct an error of statement as to a fact. The learned doctor has stated that in Dr. Hampden's case there was no commission to the vicar-general, Dr. Lushington, and Sir John Dodson—here it is.

The commission signed by the Archbishop of Canterbury, and dated 7th January, 1848, was then put in.

Dr. ADDAMS said he had been misinformed on that subject. One objection as to the hearing of the exceptions was that the hearing would not be concluded within twenty days. But surely that was not a sound objection. The limitation to twenty days supposed that there was no objection to the confirmation. But if there was any reasonable impediment to it, no *præmunire* would be incurred by exceeding that number of days. Suppose the person elected was prevented by paralysis, gout, or apoplexy from attending, surely the archbishop would not incur a *præmunire*. Nor would he if he delayed the confirmation for any good and valid reasons. If he delayed it without reason he would be liable. The 26th Henry VIII., c. 14, which was called "An Act for the Nomination of Suffragans and Confirmation of them," might be referred to on this subject. That statute directed how suffragan bishops should be nominated, and said, after that the King's Majesty shall present his letters patent, the consecration shall take place within the period of three months, "the archbishop having no lawful impediment." He would call the attention of the court to the fifth section of the Act, the provisions of which were very important:—

"And be it further enacted by the authority aforesaid, that every Archbishop of this realm, to whom any of the King's letters patent, in the cases afore rehearsed shall be directed, having no lawful impediment, shall perform and accomplish the effects and contents of this Act, within the time of three months next after such letters patent shall come to their hands."

The words expressed in that Act must be introduced by implication into the Act now before the court, and the completion of the confirmation must be made within twenty days, the "archbishop having no lawful impediment."

The last ground of objection was, that this was not a case for a *mandamus*. In the first place this case did not resemble that of Mr. Gutteridge and Dr. Lee, for here the parties were parties really interested in the matter: they lived within the diocese of the Bishop, and were some of a large class of persons who viewed the teaching of Dr. Hampden with suspicion. The Attorney-General had pleasantly thrown out the remark that this case resembled that of Faithful, and that these persons were like Blindman, who said, "Oh, I see clearly that this man is an heretic!" But the Blindman here consisted of no less than thirteen bishops, besides several other learned and pious persons. Then as to the subject matter of the objections. It was said to be a work on the evil effects of dogmatism, and the object of such a work was said to be most proper. That might be, but it was not the subject of the work, but the ~~mode of in-~~ treatment that was objectionable, the objection being that, in the ~~mode of~~ treating the subject, things were said that were derogatory to the



Common Prayer and to the Thirty-nine Articles. What possible inconvenience could issue from this matter being investigated, compared to that which would issue from the refusal to grant this *mandamus*? If the *mandamus* would not lie, the clergy and others would have no opportunity of making their objections, and the metropolitan would be compelled absolutely to consecrate one who, for his supposed opinions, was deemed by a large body of men unfit for his office, and the Crown would then appear to claim a supremacy in a way in which it had hitherto disclaimed to assert it.

On the other hand, suppose the court to grant the *mandamus*, and the vicar-general's court to be again held, exceptions to be tendered and received, and a trial had before the Court of Audience, the suspicion as to unsoundness of teaching would then be put to the test. If the teaching was proved to be sound, Dr. Hampden would take his seat on the bench with infinitely greater satisfaction to himself and to the public. If unsound, he might disclaim what was found to be so; but if he would not, then the Crown might proceed to a new election, and all parties would be benefited by the result. With respect to the point, that this was not a case for a *mandamus*, though he considered it to be precisely a case in which a *mandamus* ought to issue, he should leave the discussion of that point to those learned gentlemen who better understood it, and by whom he was to be followed. He should only remind the court, that, though not distinctly asked for, this case was presented as one in which either a *mandamus* or a prohibition might issue; and he trusted that the court would grant one of these writs, and not leave the parties interested without any remedy. Owing to the ecclesiastical judge having misconstrued an Act of Parliament, there had been an absolute refusal to hear the parties who were desirous to object to the confirmation, and in that case if they had not a right to a *mandamus*, he (Dr. Addams) did not know what constituted that right. In "*Lucy v. the Bishop of St. David's*" a *mandamus* was not granted, because the allegations tendered were rejected. If allegations were tendered and rejected in an inferior Court, there was a remedy by way of appeal; but, if rejected by a superior Court there was no remedy whatever. If the opposers in the present case had been permitted to appear, and had tendered allegations, which were rejected, they might have appealed, and if they had then gone into the Court of Audience, and the allegations had been again refused, there would have been no remedy, because there would have been a decision by an Ecclesiastical Court in a proceeding conducted according to Ecclesiastical law. In the present case, however, there had been simply a refusal by an Ecclesiastical Judge to allow the parties to appear at all, and the proper remedy for this was a *mandamus*.

Mr. A. J. STEPHENS followed on the same side. After the lengthened exposition which this case had already undergone, he should not occupy the attention of their Lordships, except for a short period. He wished to make only one or two observations upon the statute 25th of Henry VIII., c. 20, and next upon the issue of a *mandamus*, leaving it to his learned friend who was to succeed him to enter more fully into the subject. The object of the statute of Henry VIII. was to annul the power of the Bishop of Rome, and to vest in the Archbishop of Canterbury the power of confirmation and consecration, without allowing any appeal to the Court of Rome. He directed their Lordships to the fifth section of the statute, which it was provided that the Archbishop should confirm and consecrate

the Bishop, giving him those benedictions, ceremonies, investitures, and other things that were requisite to the same, without suing for or procuring bulls from the See of Rome. Their Lordships would observe that the power of Confirmation was not given to the Archbishop by this statute, but that it was recognized as being in them already, and all that the statute required was that the confirmation should take place without suing for bulls from Rome. All the other rights of the Archbishop were left unfettered by Act of Parliament. By the 7th section of this statute it was provided that if any Archbishop or Bishop should refuse to confirm and consecrate a person after he was elected, he should be held to run in the face of the dangers and penalties of *præmunire*. But the refusal here meant was clearly a wilful refusal—if the Archbishop refused to confirm and consecrate, contrary to the laws and statutes of this kingdom: the letters patent ordering confirmation must be construed in this way, because in them the Archbishop was not required to confirm and consecrate absolutely, but according to his pastoral duties, and the laws and statutes of the realm.

Perhaps the intention of the Legislature could not be ascertained better than by looking at the mischief which these laws were intended to rectify. Now, what was the mischief which this statute was intended to rectify? It was to destroy the power of the Pope in this kingdom, but not to interfere with the ancient pastoral rights and duties of the Archbishop. His learned friend Dr. Addams had, he thought, irrefragably established this position, that, by the common law of the land, anterior to the statute of Henry VIII., the Archbishop had the right to confirm judicially. The question, therefore, now was, whether, by the enactment of the statute, the Archbishop was to confirm judicially or ministerially. In *Caudry's case*, (5 Coke 5) the Court resolved that a statute enacting affirmatively did not abrogate the jurisdiction of courts ecclesiastical, unless words negative also occurred, such as that the matter should be done in a certain way, and “in no other manner or form.” Now, these words did not occur in the statute of Henry VIII. He would refer their Lordships to *Dwarris on Statutes*, page 637:—

“A statute made in the affirmative, without any negative expressed or implied, does not take away the common law. It follows, that it does not affect any prescriptions or customs clashing with it, which were before allowed; in other words, the common law continues to be construed as it was before the recognition by Parliament.”

The same writer, at page 696, said,—

“If a statute make use of a word, the meaning of which is well known, and has a certain definite sense at the common law, the word shall be expounded and received in the same sense in which it is understood at the common law. Thus, the term ‘cottages,’ which is used in statute 31 of Elizabeth, c. 7, has the same signification there, as it had at the common law, and as is applied to it in *Domesday Book*.”

At page 702, also, the same writer said,—

“The words of a statute are to be taken in their ordinary and familiar signification and import, and regard is to be had to their general and popular use.”

He submitted, therefore, as a general principle, that commanding absolutely the performance of a judicial duty did not render that duty ministerial. It was admitted on all hands that the present forms of confirmation had been in use nearly 300 years, during that period 200 or 300 cases had been tried, and on the face of the records of those trials the judicial powers of the Archbishop to confirm were recognized. [Having read the sentence of the Vicar-General at the Confirmation of Dr. Hampden

p. 51) the learned gentleman proceeded.] In *Vin. Abrid.*, tit. "Prerogative of the King," (O. E.) p. 229, there was this passage,—

"If a sentence be given by the ordinary or other ecclesiastical judge, it is to be presumed by the judges of the common law that it is according to the ecclesiastical law, and so they ought to allow it."

The judicial power of the Archbishop was recognized by the authorities, which were to be found in 3 Salkeld, p. 71, tit. "Bishop;" Godolphin's *Repertorium Canonicum*, p. 26; and Gibson's *Codex*, tit. 4, cap. 1, p. 115. The Ordinal in the Book of Common Prayer said:—

"It is evident unto all men diligently reading the Holy Scripture and ancient authors, that from the Apostles' time there have been these orders of Ministers in Christ's Church,—Bishops, Priests, and Deacons. Which offices were evermore had in such reverend estimation, that no man might presume to execute any of them, except he were first called, tried, examined, and known to have such qualities as are requisite for the same; and also, by public prayer, with imposition of hands, were approved and admitted thereunto by lawful authority. And, therefore, to the intent that these orders may be continued, and reverently used and esteemed in the Church of England, no man shall be accounted or taken to be a lawful Bishop, Priest, or Deacon in the Church of England, or suffered to execute any of the said functions, except he be called, tried, examined, and admitted thereunto, according to the form hereafter following."

Now, he submitted that the election of a Bishop was an incomplete act, which might be vacated in many ways, as by the refusal of the person elected to accept, by the refusal of the King, or by proofs of legal incapacity at the time of the election. "Peacock's case," 5 Coke, p. 58; Watson's *Clergyman's Law*, p. 215. In point of principle, cases for deprivation were cases for refusal to confirm. If it were otherwise, and the duty of confirmation were merely ministerial, the Archbishop might be obliged to confirm and consecrate a man one day, whom, on the following day, he might deprive of his office, as in the case of a man guilty of heresy. That appeared to him (Mr. Stephens) to be not only most absurd, but contrary to the principle cited. Suppose a man guilty of heresy, and the Archbishop refused to consecrate him, was the Archbishop to be subject to the penalties of *præmunire*?

This was a case in which a *mandamus* was peculiarly required, for the object of such a writ was to oblige an inferior tribunal to hear and to give judgment where they had jurisdiction. This principle had been fully established in the *King v. the Justices of Middlesex*; the *Queen v. the Justices of the West Riding*; the *Queen v. the Justices of Carnarvon*; the *King v. the Justices of Kent*; the *Queen v. the Justices of Suffolk*; and the *King v. the Justices of Surrey*. The Court which sat in Bow Church had a judicial duty to perform, and were bound to hear the objections which were offered, but what were the facts? They were these. The court having assembled, all persons who had any objection to urge against the confirmation and election of the Bishop of Hereford were called upon to appear, and they should be heard; upon which three beneficed clergymen of the Church of England, who, with their proctors and counsel, appeared, and demanded to be heard. The Judge of the Court refused to accede to this demand, and would not allow them to appear. He (Mr. Stephens) respectfully submitted that this amounted to an absolute denial of justice. It was said at the opposite side that this should be a case for an appeal, but how could an appeal be made when no appearance had been allowed? The parties who objected to the election and confirmation were not allowed to enter an appearance, and they had no other remedy but to apply to this Court for a *mandamus*. In the case of *the King v. the Mayor of Fowey*, the learned judge who decided the case



stated that the true principle of this prerogative was that the writ of *mandamus* should be issued in all cases where justice required that it should be granted; and in the case of the *King v. Barker*, 3 Burrowes, 1267, Lord Mansfield stated that such a writ should always be granted where justice required it, and that it should not be too scrupulously weighed where there was no other specific remedy.

A great deal had been said about the King's prerogative being invaded by the refusal of the Archbishop to confirm, but the true principle of the King's prerogative in matters ecclesiastical was this—that he dealt with them in his ecclesiastical Courts through his ecclesiastical judges, just as in temporal matters he regulated them through the medium of his temporal judges in the temporal Courts. The learned gentleman then referred to several cases to show that a *mandamus* was issuable whenever the object was to prevent injustice, and he submitted that an injustice had been done to the opposers by a refusal to hear them. There had been no decision, because there had been no hearing. He submitted, then, that the rule for a *mandamus* ought to be made absolute, even if the Court entertained doubts on the question, in order that the question might be properly raised upon the return to the writ.

Mr. PEACOCK next addressed the Court. He said that he would assume that, according to the canon law, the parties were at liberty to come in and oppose, but the question was, whether it was compulsory on the Archbishop, in all cases and under all circumstances, to consecrate a Bishop elected by the Dean and Chapter. The 7th section of the statute of Henry VIII., threatened the Archbishop with the penalties of *præmunire* if he refused to consecrate the person nominated and signified to him by the King's letters patent. Now that meant that if the Archbishop, corruptly and wilfully, refused to confirm and consecrate according to law. In the previous chapter (19) it was said that the canon law had been introduced as part of the law, but that no portion of the canon law introduced into this country was to interfere with the laws of the country, or the prerogative of the Crown. The statute referred to said that those canon laws, "which be not contrariant or repugnant to the law, shall be still used as they were before the making of this Act, till such time as Parliament shall think otherwise." The canon law, then, allowed opposition to be made to the appointment of a Bishop, and that opposition was not contrary to the prerogative of the Crown. Then the statute of the 20th of Henry VIII. was passed, and then came the question, whether that meant that the Archbishop must confirm according to the canon law, or whether he must absolutely confirm at all events? Now, it was clear that, whatever the law was as to confirmation, it must be so as to consecration, for we find in the same sentence that, if the Archbishop refuse to confirm or consecrate, he incurs the penalties of *præmunire*. Now, did that statute compel the Archbishop to consecrate under any circumstances whatsoever? Suppose a person was presented to him who was not worthy of being consecrated, would the statute compel the Archbishop to consecrate him? The question before the Court was, whether those who opposed the confirmation of the Bishop of Hereford should be heard, and, if they ought to be heard, whether the Court would issue a *mandamus* to the Archbishop to compel a hearing? The Vicar-General refused a hearing, relying, not on the canon law, but on a misconstruction of a statute of Henry VIII. Now, a case had been supposed of a person presented to the Archbishop for confirmation, and who was not of the age of thirty. His (Mr.

ck's) learned friend assumed that the confirmation of such a person could be tantamount to a dispensation of the Pope, and that every power vested in the Pope was vested in the Queen. He (Mr. Peacock) apprehended that it was perfectly clear that the Queen had *not* the same power as the Pope. The Queen was temporal head of the Church and no person had power over her; but the Queen had not the same power as the Pope, for she could not consecrate a Priest.

Mr. Justice COLERIDGE.—Has the King the same power to dispense?

Mr. PEACOCK apprehended that the King would not dispense with the age of the Bishop, it being enacted by statute that a Bishop was to be of the age of thirty. A Priest was to be twenty-four, and a Deacon could not be ordained under the age of twenty-three, unless by a dispensation; but the Bishop *must* be thirty.

Mr. Justice COLERIDGE.—Both of the statutes that settle the age of a Bishop are subsequent to this statute of Henry VIII. Was there any Act of Parliament in the time of Henry VIII. that made the Bishops' age thirty? Could the King dispense with the canon law, or, in other words, could the King dispense with the canon law which is part of the common law?

Mr. PEACOCK.—Would the Archbishop be bound to confirm if he discovered that the Bishop was not of the age required by the statute? He (Mr. Peacock) admitted that a dispensation might be given in the case of a Deacon, but not in the case of a Bishop. In the preface to the "Form and Manner of Consecrating Priests and Bishops" it was stated, "That none shall be admitted a Deacon except he be twenty-three years of age, unless he have a faculty. And every man who is to be admitted a Priest shall be full four-and-twenty years old. And every man who is to be ordained or consecrated a Bishop shall be fully thirty years of age." The Deacon was the only instance in which the faculty was mentioned. Now, he apprehended the true construction of the enactment would be, that in the case of a Priest or Bishop a dispensation could *not* be given.

Mr. Justice COLERIDGE.—Is the faculty of dispensation to Deacons in the Crown?

Mr. PEACOCK.—No. It is in the Archbishop. The faculty was allowed to persons of extraordinary abilities, and enabled them to be ordained at an earlier period than the Act specified. The faculty might be obtained from the Archbishop of Canterbury. Now, suppose that a person not thirty years of age had been elected as a Bishop by the Dean and Chapter, would the Archbishop, knowing it, be bound to confirm and consecrate him? If after the election, the person so elected was found guilty of a certain crime, which the Archbishop had the power to try him for—suppose the crime of perjury—would the Archbishop, knowing the guilt of the party, be bound to consecrate him? In the consecration of Bishops one of the questions asked by the Archbishop was:—

"Will you be faithful in ordaining, sending, or laying hands upon others?"

"Answer—I will do so, by the help of God."

Now, as the Archbishop himself had promised to be faithful to the Church "in ordaining, sending, and laying hands upon others," was he to lay hands upon a person whom he had actually seen commit a crime, or else to be subjected to the penalties of *præmunire*? Why, it was not consistent with reason to suppose that such could be the meaning of the statute. The real meaning of the statute was, that the Archbishop should be compelled to consecrate the party presented, unless there was a valid

objection against so doing. Dr. Bayford said there was profound darkness on this subject, and therefore it was necessary to get as much light as possible. He (Mr. Peacock) would endeavour, therefore, to throw some light upon it. The practice always had been to cite the opposers. Now, supposing the opposers should come to court and prove that the Bishop Elect had been convicted of felony in a court of justice, was the Court bound to hear the opposers? Was the Archbishop bound to confirm, or subject himself to the penalties of *præmunire*? In the present case, on the part of the opposers, a proctor appeared, and said he had certain objections in the form of a libel or plea, and those objections were duly signed by an advocate, as is usual on such occasions. The Court said they were "bound to confirm without suffering any opposition," or words to that effect. The opposer said, "I bring in a libel;" and Dr. Lushington replied, "No, you will not, you are not permitted to appear; and, Mr. Townsend, you know very well, as an ecclesiastical practitioner, that you cannot bring in any libel until you are permitted to appear." On the question whether opposers should be permitted to appear or not counsel was heard. The Court refused to allow them to appear; and then, a second time, they were cited to come in and they should be heard. Then a definitive sentence was pronounced. The Court stated that they were precluded from hearing objections. The Vicar-General, in delivering judgment, said he was of opinion that the Court could not hear the opposers, and that if he suffered any let or hindrance to the confirmation, he would be liable to the penalties of *præmunire*. The Court was bound by a statute law of the realm to confirm the election, or subject themselves to these penalties. They all decided upon the ground that the statute precluded them from hearing any opposition.

Suppose the Archbishop, during the ceremony of consecration, asked those questions which he was required to ask, and which, by the forms of ordination, were to be answered in a particular way—suppose he asked the Bishop Elect, "Are you persuaded that the Holy Scriptures contain sufficiently all doctrine required of necessity for eternal salvation," &c.? and that person said he was not, and in consequence the Archbishop refused to consecrate, would he be subject to *præmunire*? He (Mr. Peacock) apprehended that an indictment against the Archbishop for refusing to consecrate must show that he refused to consecrate without some lawful excuse, and that it would be a sufficient answer on the part of the Archbishop to state that he refused to consecrate because during the ceremony the Bishop Elect said he did not believe in the Holy Scriptures. It was decided in the case of *Fletchers and Calthorp*, 6 Queen's Bench Reports, p. 808, and also in the case of *Queen and Couldon*, 4 Burrowes' Reports, that a reasonable construction was to be put on the words of a statute, and in drawing an indictment it was not sufficient to use the very words of the statute, but you must show that the offence comes within the meaning of the Act. The reasonable construction of the statute of Henry VIII. was, that if the Archbishop should refuse to confirm, or refuse to consecrate without some lawful excuse, he should be subject to the penalties of *præmunire*. It appeared by that statute that confirmation was required even though the Dean and Chapter should refuse to elect.

If the Archbishop should refuse to confirm or consecrate, there was no power given to the Crown to do an act which would be tantamount to confirmation or consecration. If the Dean and Chapter refused to elect within a certain time, there was a provision that the Crown might nominate—~~if the Archbishop refused to give his sanction to the act by confirmation~~

if the Archbishop, after having confirmed, refused to consecrate, no provision was made in the statute by which any step could be taken tantamount to one or the other. And that showed that Confirmation and Consecration were acts in which the Archbishop exercised a peculiar jurisdiction. It was not like the case in which parties having refused to elect the party named in the letters missive accompanying the *congé d'élire*, the Crown was enabled to do something which was tantamount to the election of the party by the persons to whom the instruments were addressed. The commission in this case had been alluded to, but he found that it was not a commission to confirm at all events, but upon condition of certain preliminaries having been gone through, such as the citation of objectors, &c. In the commission they were directed to inquire whether the election had been rightfully and lawfully conducted, so that it was manifestly not a commission to confirm absolutely at all events.

Several cases had been quoted to show that a *mandamus* was not the proper remedy. It was said that even supposing this Court could interfere in the matter, the proper remedy would be by appeal. Now, he apprehended that it was impossible to appeal in this case, because the parties had not yet been allowed to appear. In this case the applicants were not appealing against a judgment pronounced upon the matter: all they desired was, that they might be heard by the Commissioners, who, after citing them, refused to give them a hearing. The Commissioners had told them that they had no right to come and oppose the confirmation, no matter what might be the nature of their objections. Now, could a party appeal against that? That was not a decision upon the case. It was not a decision that involved the grounds upon which they objected to Dr. Hampden's doctrine and confirmation. What they complained of was, that they were not heard at all. There could, therefore, be no parties to the appeal. But, supposing they had been allowed to appear, then if, after their objections had been stated to the doctrine of Dr. Hampden, and decision given thereupon, to which they objected, the proper Court, if there were any, to which an appeal would lie, supposing they objected to the Archbishop's decision, would be the Court of Delegates, in his opinion.

Mr. BADELEY, who also appeared in support of the applicants, said—After the long discussions which had already taken place on this subject, and the ability with which his learned friends had conducted the case for the issuing of a *mandamus*, he should have been contented to have left the question to the decision of their lordships without making a single observation; but when he considered the great importance which was attached to the proceedings by the parties who had instructed him, he felt it his duty to trespass for a short time on their lordships' indulgence. He apprehended that this case was to be governed by the same rules which governed inferior tribunals in similar cases; and that, therefore, after the inferior court of the Archbishop had refused to exercise the jurisdiction for which it was created, this Court would not hesitate to issue a *mandamus* to compel him to hear the objectors to the confirmation. With reference to the inquiry of the learned judge (Mr. Justice Patteson) as to whether any case was on record in which a *mandamus* had been issued from this Court to an inferior court in which the applicants had been refused to be heard, he believed he might say, that the reason why no such case appeared upon record was, that no such case of abuse and injustice had ever before occurred. But he apprehended that where a party had been refused to be heard in any inferior court, and they came before this

Court for a mandamus to compel the inferior tribunal to hear them, it was quite within the power of their lordships so to interfere. In Comyn's Digest, under the title "Prerogative," it would be found that their lordships had the power to command, by mandamus, all ecclesiastical courts to do what might appear to be right. The parties in this case claimed no more than to be heard. They did not ask for any particular sentence. They were perfectly ready to abide by the judgment, whatever it might be. They did not ask their lordships to enforce any particular sentence. They simply claimed the right to put their objections before the proper parties in the proper quarter; and this Court, he apprehended, would not hesitate to exercise its undoubted jurisdiction, by compelling the Archbishop to hear the objections against Dr. Hampden. The case of the "*King v. the Justices of Kent*," was precisely the same as the present one. The learned commissioners at Bow Church, like the justices of Kent, declared that they had not the power to hear the objectors. The commissioners stated that the statute of Henry VIII. deprived them of that power. They said that if they heard the objectors they would incur the penalties of *præmunire*. That inferior tribunal, like the inferior tribunal of the justices of Kent, had mistaken the law; and it was in the power of this Court to set it right on the point of jurisdiction. That this Court had such a power with reference to inferior Courts was most distinctly stated in the report of the case in question. And the proper way of so interfering was by mandamus. The Court had likewise, of course, the power, upon application, of restraining the inferior Courts from proceeding in matters beyond their jurisdiction, and that was by prohibition.

The learned counsel then referred to the case of "*Gould v. Gapper*" (5 East, 345), where the Ecclesiastical Court exceeded its jurisdiction, the Court granted a prohibition; and the same principle would apply in the case of a mandamus, where a Court refused to exercise its jurisdiction. The writs of mandamus and prohibition were, in those cases, the appropriate remedies. The case of "*Paley v. Boon*" (392 Strange), and the case of "*Rex v. the Bishop of Lincoln*" (2 T. R.), and various other cases which were cited in Viner's "*Abridgment*," showed that a mandamus would lie to an Ecclesiastical Court which refused to do that for the purpose of doing which it existed. His learned friend Mr. Waddington had said, that this Court would not interfere where a Court had mistaken the ecclesiastical law. That might be, but here the Court had mistaken the statute law—the statute of Henry VIII. It had been said that the opposers of Dr. Hampden might appeal to the Privy Council; but that was impossible, for they were never allowed to enter an appearance; they were denied a footing in the Court, and there was no judgment to appeal against. They were not allowed even to appear in the Archbishop's Court, either by themselves or their proctors. Now, he apprehended that if they had been so treated in the Sheriffs' Court, or any other inferior Court, this Court, upon representation made, would issue its mandate to compel the Court to hear the applicants. He had, then, no doubt that this was a Court, after a practice of 300 years, in which its forms had been observed, where sentences were given judicially, where parties were cited, and where witnesses were examined on oath; it would be held to be one where judicial proceedings took place, and that the confirmation of the Bishop was a judicial proceeding. The Court in which this proceeding took place was a branch of the Court of ~~Antiquaries~~ and there could be no doubt that it was one of the superior Ecclesiastical



, and was treated as such by Lord Coke, and by Comyns, in his  
st." Ayliffe also stated that its jurisdiction was equal to that of the  
of Arches, and it was expressly referred to in the 23d Henry VIII.

of the highest Ecclesiastical Courts within this realm. There  
be no doubt, therefore, that this was a point against which their  
ps' mandamus would lie, and he trusted the cases which had already  
ited would enable their lordships to see that a mandamus ought to  
en. He would come, then, to the question whether, in point of  
he Court of the Vicar-General was precluded, by the statute of  
VIII., against entertaining these objections, or against hearing the  
n. That would bring him to the consideration of the statute of  
VIII.

Justice ERLE—It has been contended, on the other side, that the  
General acted in the matter of confirming Bishops as Vicar-General,  
t as a branch of the Court of Audience. I don't know if you wish  
e any observations on that point.

BADELEY—The Vicar-General's Court is a branch of the Court of  
nce.

ATTORNEY-GENERAL—I beg my learned friend's pardon; if he  
ead the authority he will see that the Vicar-General had only  
l with "matters of form, such as the confirmation of bishops."

BADELEY—Some authorities did say that the Vicar-General was  
ted to deal with matters *pro forma*, such as the confirmation of  
ps. The meaning of that, he apprehended, was, that he was not to  
rimarily, and in the first place, with suits which affected parties,  
ith matters, which, being primarily matters of form, might yet  
e matters of litigation. Thus, in the matter of episcopal confir-  
1, suppose no objectors came forward, which was usually the case,  
he proceedings would become a matter of mere form; but if parties  
me forward with objections, he apprehended the Court must be  
exactly as it stood; that might become a matter of anxious inquiry  
en parties, which in its primary and ordinary course was a matter  
*orma*.

determine the principal point in question it would be necessary to  
er what was the state of the law prior to the statute of Henry VIII.,  
e circumstances in which it was enacted. Now, it was known that  
the earliest period the power of the Metropolitan to confirm was  
ized. He apprehended that this right of the Metropolitan was  
ed from Holy Scripture, because it was clear from the Epistles of  
to Timothy and to Titus, that the power was vested in these persons  
lain other Bishops by the laying on of hands, and they were required  
ercise the most scrupulous inquiry into the previous life, habits, and  
cter of the persons to be consecrated. The words of St. Paul to  
thy were in the 3d chapter and the 2d and following verses, and  
he distinctly states the different qualifications of a Bishop, and  
g the rest is this expression—"A Bishop must be blameless," or, as  
s in the original Greek, τὸν ἐπίσκοπον ἀνεπίληπτον, which he (Mr. B.)  
reted, meant more correctly, "not liable to any charge,"  
ehensible, which was, in fact, the best translation that could be given  
a Greek word. But in St. Paul's Epistle to Titus, in the first  
er, he expressly states that Titus was left in the island of Crete "to  
order the things that were wanting, and to ordain elders in every

He had the right to ordain all officers, superior and inferior,  
ar Bishops, Priests, or Deacons, and therefore no person could act

in that island without his sanction and authority. Immediately after this expression come the verses detailing what the qualifications of a Bishop were to be; so that it is perfectly clear, from the passage in which he states the purpose for which Titus was left in Crete, that he was required to exercise his authority in ascertaining the fitness of the individual on whom he was about to lay hands, whether for a higher or for an inferior office. Among the rest of the qualifications stood foremost this one, that he must be blameless—it is in the Greek ἀνέγκλητον—in other words, that he must “not be liable to any charge,” as the original might be translated. Then he goes on and states other qualifications, all with reference to the character which the individual has maintained previously to his becoming a Bishop, and, therefore, showing that any person who is entrusted with the duty of laying on of hands, and if any one, then most of all he who is entrusted with the sacred duty of ordaining Bishops, was bound to satisfy his conscience according to the sacred rules laid down in Scripture. He apprehended, therefore, from these words of Scripture, it was clearly deducible that the right of the Metropolitan might be found in Scripture itself, and he apprehended that had always been the rule and the understanding of the Church upon this subject, and the authority of the canon law, as well as those rules which existed prior to the canons, showed that this must be so.

Dr. Addams had already submitted to their lordships the decrees of the Apostolic Constitutions, with some qualifications, however, as to their authority. The qualifications, in his (Mr. Badeley's) opinion, amounted to this, that though they were collected at a later age than they professed to be, yet the Constitutions had existed separately for a considerable time before, and might be taken therefore as the authoritative rules of the Church existing at the time. In these Apostolic Constitutions the character and the office of the Metropolitan was fully recognised. The 35th canon says,

“The bishops of every province ought to own him that is Primus among them, and esteem him as their head, and to do nothing extraordinary without his consent; but every one those things only which concern his own diocese and the country subject to it. Nor let him that is Primus do any thing without the consent of all; for so there will be a unity of mind, and God will be glorified through our Lord Jesus Christ, and the Father by the Lord in the Holy Ghost.”\*

In the later Councils of the Church he found that this opinion was still further developed. In the fourth Canon of the Council of Nice there was a distinct recognition of the power and duty of the Metropolitan; and he prayed their lordships to recollect that the Council of Nice was one of those four General Councils which were expressly recognized by the legislature of this country, and were referred to in the 1st of Elizabeth.

The ATTORNEY-GENERAL—But only so far as heresies were concerned.

Mr. BADELEY admitted that express reference was made to heresies.

The ATTORNEY-GENERAL—And heresies only.

Mr. BADELEY—But if the Legislature referred to these Councils at all, the consequence was that these four General Councils were sent down with the sanction of the legislature for their authority, in a manner which none of the others had. Here, then, was a General Council—one of the most important which the Church had ever held—declaring that if a Bishop should be ordained and consecrated in a province without the consent of the Metropolitan he would not be a Bishop at all.

\* The Council of Elvira, A.D. 305, canon 38, indicates the presence of a Metropolitan—whose duty it was to examine the literary format, and their bearers.

**THE ATTORNEY-GENERAL**—What is the date of that?

**MR. BADELEY**—It is the first Council of Nice, held in the year 325, and the sixth canon of that Council said,

“Let the ancient customs still take place, which obtain in Egypt, Libya, and Pentapolis, that the bishop of Alexandria have power over all these: because the same is customary with the bishops of Rome. And accordingly, in Antioch, and other provinces, let the prerogatives be preserved in the churches. And in general, let this be undoubted, that if any man be made a bishop without the consent of his Metropolitan, this great Synod decrees, that such a one ought not to be a bishop.”\*

There was another Council held in the year 341—the Council of Antioch—also a Council of great authority, and in that Council the authority of the Metropolitan was fully sustained. The 9th canon says that—

“It behoves the Bishops in every province, to own him that presides in the metropolis, and takes care of the whole province; because the metropolis is the place of universal concourse for all that are men of business: therefore it is decreed, that he have special honour paid him; and that the other Bishops do nothing extraordinary, or those things only which concern every parish (diocese), and the places subject to it, without him, according to the ancient canon which was in force in the age of our fathers. Let every Bishop have power over his own diocese, so as to administer and make provision for the whole country subject to his city, according to the measure of his piety, and ordain Priests and Deacons, and determine every thing with judgment; but let him do nothing else without the Bishop of the metropolis, nor he without consent of the rest.”

But in the year 361, at the Council of Laodicea, the canons were still stronger than these, and fully corroborated the decrees of the Nicene, it being fully held that the business of the Metropolitan was to inquire into the life and character of the persons who were proposed for ordination. The 12th canon says,

“That such bishops ought to be constituted in their ecclesiastical government by the discretion of the Metropolitans and the neighbouring Bishops, as have been for a long time tried in relation to their faith, and the dispensation of the sincere word.”

Then, in the second Council of Carthage, A. D. 390, there were again canons to the same effect. Canon 12 says,

“No one shall presume to ordain a bishop without consulting the primate of the province, and taking his precept, though many other bishops should join with him.”

He might also refer to the Council of Chalcedon, A. D. 451, which was one of the four General Councils, and to the Council held at Arles,† A. D. 452, in which the authority of the Metropolitan was recognized, showing that the power was not merely that of conferring orders, but that it was an obligation of a most sacred nature, to inquire into the faith, the character, the morals, and the whole previous life of the man whom he was called to ordain.

This rule of the Church was afterwards adopted into the canon law itself, and was to be found in the *Corpus Juris Canonici*.‡ In the first part of the “Decretum,” p. 107 (folio), we had a long canon, and then we had given us under the 3rd and 64th Distinctio, (p. 336, folio edition),

\* The 4th canon also confirms the existing rights of Metropolitans, especially respecting the election of Bishops:—“A Bishop ought to be constituted by all the Bishops that belong to the province: but if this be not practicable, by reason of urgent necessity, or the length of the way, three must by all means meet together, and when they have the consent of those that are absent signified by letter, then let them perform the ordination; and the ratification of what is done must be allowed to the Metropolitan in every province.”

† The following is the sixth canon of the Council of Arles:—“But above all things let it be manifest that according to the great synod (Council of Nice, canon 6,) he who has been appointed bishop without the consent of the Metropolitan, ought not to be bishop.”

‡ The *Institutiones Juris Canonici* of Lancelottus contain the whole *Corpus Juris Canonici* condensed; i. e. two large quarto volumes into 158 pages quarto.



almost at length, the canon referred to from the Council of Carthage. The "Decretum" stated the canon at length, and the Glosses distinctly recognized it as part of the canon law. In the same page the writer went on to show what the Archbishop required. The right of the Metropolitan was distinctly recognized as beyond all question. In all the books on the canon law, the obligation was thrown upon him to examine into the conduct and habits of the individual. That rule of the canon law was formerly carried out in this country, and it universally prevailed wherever the Episcopal authority was established. In ancient times nothing could be done without the authority of the Metropolitan, and before any person was ordained it was necessary that he should be examined, in order to satisfy the Archbishop of the propriety of consecrating him. In "*Dupin de Antiqua Ecclesiæ Disciplina*," a book well known, and of great authority, there was a long discussion on that point. In page 62, chapter 12, he referred to a great number of authorities of the later period of the Church, in order to show how fully and completely the rights of the Metropolitan were recognized in the Church at all times. He makes it perfectly clear that the confirmation of a Bishop did not take place until after a full examination and discussion of his fitness. The Abbé Fleury, who was also a great authority, gave a summary of the duties of metropolitans, and in speaking of confirmation, observed, that the process might be very long, for there might be a great number of contradictors or opposers, and each might advance as many causes of nullity as there might be irregularities and incapacities in the person of the elected, or defect, neglect, or informality in the electors. This authority was of great value in this country, as it gave the general practice as to the canon law in France.

Mr. Justice ERLE asked when the work was written.

Mr. BADELEY—About one hundred years ago. The author was Confessor to Louis XV.

Mr. Justice ERLE asked whether laymen, as well as ecclesiastics, were permitted to make objections to Bishops elect?

Mr. BADELEY said—All parties might come and object, and it was the duty of the Metropolitan to hear them. Barbosa, a man of great authority as a canonist, laid down the same thing in his "*Jus Ecclesiæ Universæ*," c. 9, lib. i. The Attorney-General said the canon law was foreign law, but he (Mr. Badeley) believed it would be admitted that it was the ecclesiastical law of this country. With reference to the canon law, he could not do better than refer to the language of the late lamented Sir William Follett, in a case of "*Regina v. Millis*," before the House of Lords. He said the canon law was the law of the Church—the ecclesiastical law. It was received in this country, and became, of course, the ecclesiastical law of the country, except when it clashed with the law of the land.

Lord DENMAN remarked that, on that occasion, Chief Justice Tindal speaking in the name of the twelve judges, observed that the canon law was not the law of England except so far as it had been proved and adopted in this country.

Mr. BADELEY apprehended that the canon law would be the law of the land, unless shown to be contrary to the common or statute law, and that the "*onus probandi*" lay on those who objected to any portion of it. The onus was on his learned friend to prove that the canon law had not been admitted; for, bearing in mind the uniformity which prevailed in the church, it followed that, if a law was laid down generally, it

would be received universally. It was evident from Lyndewode, and from John de Athon, that the canon law was the law of this country. He (the learned counsel) admitted that the passage in Lyndewode, p. 218, was a commentary on a constitution of John Peckham; but the note contained a general rule as to elections that opposers should be cited. The constitution of Othobon, in the time of Henry III., referred to what was the practice at that time, and there was evidence to show that when the business of confirmation was proceeded with, there was a most careful examination of the bishop elect, and that, if the archbishop was not satisfied, he had the power to annul the election altogether. In Wharton's *Anglia Sacra* there would be found various illustrations of the practice at confirmations. In page 315 there was the case of the bishop of Bath and Wells, who, having been appointed to the see of Winchester, was rejected by the archbishop Johannes Peckham on account of his being a pluralist; "*rejecit virtute canonis.*" A controversy then took place between the king and the archbishop, and the rejected bishop having appealed to Rome, the election was set aside ("*Electio à Papa cassata est*"), A.D. 1277.\* The learned counsel then cited numerous instances from the same author, pp. 357, 417, 531, 631, and 637, where that power had been exercised in this country by the Metropolitan. In another case which the learned counsel cited from p. 640, it was stated that the archbishop examined "*de formâ electionis et de personâ electi.*" The learned counsel also cited from p. 732 and 735 to the same effect. In the latter case the bishop elect was subjected to a theological examination; a thesis was given to him, and he was finally rejected, as being "*minus sufficiens in literaturâ.*" There were other cases in pages 730 and 735, in which latter it was said, that on the examination of the bishop elect of Durham by the archbishop of York, "*citantur omnes electo objicientes.*" All these cases showed the mode in which the archbishop proceeded, and that if the bishop elect did not come up to his mind, he rejected him. Those cases clearly showed that the "*persona electi,*" into which the canon law said the archbishop was to examine at the confirmation, did not mean merely the identity of the party, as had been suggested, but his qualifications by reason of learning, piety, &c. That practice undoubtedly prevailed generally throughout England, both in the province of Canterbury and in the province of York, but ultimately it seemed that the authority of the Pope interfered, and he acquired the right either through appeals to him or otherwise, of confirming bishops. Whether this right were allowed to the Pope as being recognized generally as the Patriarch of the West, and as having originally sent Augustine into this country, he would not say, but it appeared certain that the right was submitted to in the Church of England. This appeared to be the case about the time of Edward III., for in the Year Book he found constant reference made to it from that period. On referring to the 41st of Edward III., 5 B, it appeared by the Year Book that the Pope did what the archbishop of Canterbury had done previously, and in the old French of the period it is stated that the person elected was not a bishop until he was consecrated; that he was confirmed by the Pope, and that the Pope might refuse him confirmation for non-ability, or for any other cause. He would now call their lordships' attention, with reference to the authority of the Metropolitan on the subject, to a very curious document which was shown to have the authority of Parliament as well as the form of an Act of Parliament. It was an act or ordinance with reference to the confirmation of bishops, which he found in the fourth volume of the

\* Two of these cases will be found in the Appendix. \*

“Rolls of Parliament,” page 71, and passed in the time of Henry V. As the French of the original was so old and antiquated as to be nearly unintelligible, he would only trouble their lordships with a translation of it. It recited that our lord the king, having consideration of the long avoidance of the apostolic see from the damnable schism which so long adhered in the holy church, and not knowing how long more the same might continue, and as certain cathedral churches, founded by his royal ancestors, were still destitute of pastoral government, because the persons chosen to them could not be confirmed by the apostolic see, and as our lord the king feels that this is a great diminution of the interests of the church and the rights of hospitality, and so forth; and considering that, by the continuation of such a state of things, all the churches in the realm might become void, he ordains, by and with the advice and consent of the Lords and Commons in the present Parliament assembled, that the person to be chosen be confirmed by the Metropolitan of the district, charging them straightly to make such confirmation, and to do effectually all things which relate to such confirmation, so that there shall be no further voidance of these sees, to the injury of the crown and of the subjects of the realm. It thus appeared to be held that, in the absence of the Pope, it was the duty of the metropolitan to confirm bishops elect, and the ordinance also proved the value and importance attached at that time, according to the whole language of the statute, to the business of confirmation. Seeing that, in consequence of the schism in the papacy at that time, confirmation could not be regularly proceeded with, the realm was exposed to much suffering, and the churches left destitute, rather than proceed without the confirmation taking place, this ordinance was passed in 1415, and in the year following he found the crown issuing its writ, in which the provision of this statute is cited, and the confirmation of bishops is ordered to be proceeded with according to it. In the 4th volume of Rymer’s “Fœdera,” page 156 of the second part, the writ is given, and it is recited that the archdeacon of Canterbury, to whom the writ is addressed, had been elected to the bishopric of Norwich. It then recites the schism in the papacy, and the mode adopted to provide against it, and directs him to proceed to be confirmed accordingly. Then came another writ from the king, directed to the archbishop, in which the same recitals take place—the writ otherwise being in much the same form which is retained to the present day, and the archbishop being commanded to confirm without delay. And yet, peremptory as the writ was, the confirmation was required to take place according to the canon law, for at this very period Lyndewode was living, and engaged in writing his work on the ecclesiastical practices of this country. They had, then, Lyndewode’s account of the form of proceeding at his time, and he should like to know why a more stringent construction should be given to the writs under the statute of Henry VIII. than to the writs under the statute of Henry V. They had the clearest evidence from the earliest period of the power of confirmation being in the hands of the metropolitan; of the necessity of confirmation; of the fact of a full investigation taking place at it, not only of the election, but of the “*persona electi*.” They had proofs of all this being continued from year to year, and from century to century, by a succession of instances up to the Reformation. At the period of the Reformation, therefore, the term “confirmation” had a recognized legal meaning, and that meaning, he submitted, must still be attached to it, unless proof were shown to the contrary. In confirmation of what he had stated as to the duties and powers of

metropolitan with reference to the examination of the bishops elect at the time of confirmation, he would refer their lordships to a work of the highest authority on the canon law, Martene "*De Antiquis Ecclesiæ Ritibus*," vol. ii. page 95, of the Venice edition of 1783.

The SOLICITOR-GENERAL inquired who was Martene?

Mr. BADELEY said he was not likely to be a favourite author with the learned gentlemen on the other side, as he was a Benedictine monk, but he was a very learned canonist, who wrote about two centuries ago. The learned gentleman read a passage from the work to the effect that the archbishop was duly to examine the elect before confirmation, and inquire as to his character, his conduct, and his faith; that the bishop was to be instructed by the metropolitan in his duties, and an oath obtained from him that he would adhere to his duty to the church. It appeared also that he was examined as to the various heresies of the day, and that the metropolitan satisfied himself as to the fitness of the candidate on all these matters, as well as on the merits and demerits of the election, according to the canons, before confirmation. Martene corroborated these statements by a curious collection of the ancient liturgies. He (Mr. Badeley) then came to the statute of the 25th of Henry VIII., chap. 20. He thought it was clear that the whole object of that statute was directed against Rome. The very title of it would show that such was the case, and he had the authority of Lord Denman, in the case of *Hinton v. Dibdin*, 2 Queen's Bench Reports, 623, that the title of an act was not to be disregarded.

Lord DENMAN—Have you looked into the Roll of Parliament? Because the title in Gibson is different.

Mr. BADELEY—I have, my lord. It is called "An Act restraining the Payment of Annates."

The ATTORNEY-GENERAL—There is another title given in the reviving statute.

The SOLICITOR-GENERAL—The title to the act of the 1st of Elizabeth is a double title.

Mr. BADELEY said he did not lay any particular stress on the title; but it was clear that whoever put the title to the act, whichever title was the correct one, considered that the general purport of it was something against the power or authority of the Pope. The preamble was entirely made up of allusions as to restraining the power and authority of Rome, and in Bacon's Abridgment, title Statute, it was laid down that the preamble is intended as a key to open the minds of the makers as to the thing necessary to be done. In the case of *Howell v. Zouch*, in Plowden, page 369, the importance of the preamble was also shown. The learned counsel then went through the several sections of the act, to show that one was in connexion with the others, and that each either referred to Rome expressly, or was incorporated with a preceding section having such reference. It was doubtful if the seventh section, referring to *præmunire*, was in force at all at present; but at that time no offence was subject to *præmunire* which had not reference to Rome. In Lord Hale's "*Pleas of the Crown*," vol. i. page 75, he referred to this statute solely as being directed against the authority of Rome, and he did not mention the penalty as being applicable to the archbishop if he refused to confirm according to the statute. It was another thing to say that an indictment might not be prepared against him for such refusal. There were, however, high authorities for saying that this penalty was no longer in force. The 25th Henry VIII., c. 20, was repealed in Queen Mary's

reign. It was revived by the 1st of Elizabeth, but there was an express reservation in that reviving statute as regarded *præmunire*. In the 1st of Elizabeth, c. 1, s. 32, there was a proviso, "that this act, or anything therein contained, shall not extend to repeal that act of repeal of King Philip and Queen Mary, so far as relates to the penalty of *præmunire*." Whether this repealed the 7th section might be a question. There was something like an authority in the works of Lord Bacon on this point. In the 4th edition of his works by Mallett, vol. ii. page 502, under the title "A Preparation towards a Union of the Laws of England and Scotland," he mentions that the dean and chapter were subject to *præmunire* in case they neglected to elect, but he said nothing about the penalty being applicable to the archbishop for refusing to confirm.

Mr. Justice COLERIDGE—How would you distinguish the operation of the proviso in the one case and in the other?

Mr. BADELEY—I find that both are in the same section, so that perhaps the question as to the archbishop escaped the notice of Lord Bacon.

Mr. Justice COLERIDGE—If there is no distinction, you have Lord Bacon's authority against you instead of for you.

Mr. BADELEY said that Lord Bacon might have thought that the penalty applied in the one case and not in the other; but this argument as to the *præmunire* had been introduced parenthetically. Looking at the statute historically, it was passed in 1533, just as Henry VIII. was wearied out by the continued refusal of the Court of Rome on the matter of the divorce, and was framed, no doubt, in order to wreak his vengeance on the Court of Rome. His only object could have been to destroy the power of Rome, and to preserve his own authority; he did not trouble himself about the forms of procedure, as he knew perfectly well that he had in Cranmer an obsequious prelate, ready to yield in all matters to his tyrannic will. And it was remarkable that the statute passed immediately before the act in question, that is, the act of the 25th Henry VIII. chap. 19, expressly continued the canons then in force in operation in this country.

Mr. Justice ERLE—Does it not recite that a portion of these canon laws were repugnant to the English law, and that the whole of them must be revised?

Mr. BADELEY—That referred only to canons recently introduced, and could not mean the ancient canons which formed a portion of the common law of England.

Mr. Justice ERLE—Did not the act provide that the thirty-two commissioners were to revise all the canon laws?

Mr. BADELEY—Yes, my lord; but that was never carried out, and the laws not altered must still continue in force.

Mr. Justice COLERIDGE—In point of fact, were the thirty-two commissioners ever appointed?

Mr. BADELEY—I believe they were appointed, but nothing more.

Lord DENMAN—It is recited that they were appointed and did nothing, and that then a new set of commissioners were named.

Mr. BADELEY continued to say, that looking to the statute, to its purview, to its wording, and looking also to the history of the time, he would ask, was there anything in the word "confirm" in the statute to show that a new meaning was intended to be attached to it? In the case of *Smith v. Harmin*, in 6th Mod. Rep., and in Bacon's Abridgment, title Statute I., page 456, it was laid down that a word having obtained a recognized legal meaning was to have that meaning adhered to. The word



was required to confirm, and to do so according to law he should act judicially, and according to the provisions of the canon law. But why, he would ask, was the statute of Henry VIII. to be construed as being more imperative than the statute of Henry V.?

Mr. Justice COLERIDGE—Was there anything equivalent to the words in the present writs, in the writs under the statute of Henry V.?

Mr. BADELEY said they were nearly similar, and proceeded to read the forms of the writs from Rymer's "Fœdera."

The SOLICITOR-GENERAL said in all the subsequent writs the word "Canonicæ" was omitted.

Mr. BADELEY proceeded to say, that he considered the duties which he had shown to have anciently belonged to the archbishop on this matter appeared to form a part of the necessary functions which enter into the idea of a metropolitan, until these rights were interfered with by what the statute called the usurpation of the Pope.

Mr. Justice ERLE—Is there not a period of our history in which a king claimed to create a bishop without the aid of an archbishop?

Mr. BADELEY said that he was not aware of any such case. It certainly had not been carried out, and by the Thirty-nine Articles an express explanation was given, lest any question should arise as to such a power being the crown.

Mr. Justice ERLE said he was alluding to an early period, shortly after the Conquest.

Mr. BADELEY proceed to quote various confirmations by Edward III., Richard II., Henry IV., and other monarchs, of the rights, privileges, and franchises of the clergy, and contended that, if any rights were meant, they must include those which peculiarly belonged to bishops as bishops, and to the metropolitans as such. He thought that these ancient statutes furnished a rule of construction to the statute of Henry VIII. Another rule in the construction of a statute was this—that a statute which took away a right was always to be construed strictly. This was shown in the case of *Stradling v. Morgan*, in *Plowden*, page 207.

The court here intimated that they would hear the remainder of the learned counsel's argument next day.

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#### FOURTH DAY.

THURSDAY,—JANUARY 27th.

Mr. BADELEY resumed his argument by reminding their lordships that he had, on the previous day, called their attention to the state of the law, with reference to confirmation, prior to the passing of the statute of Henry VIII., with the view of showing that in such points as that statute did not expressly annul, the law as it previously stood still prevailed, as was laid down by Coke. The early history of Metropolitan power, as he had explained, was based upon the canons of the early church. Those canons continued in force in this country down to the period of the Reformation. He had, on the previous day, given the best possible proof of what was the meaning of the word "confirmation," and what was the intention of the legislature in passing the statute of Henry VIII., viz. that a direction might be given to the archbishop to "confirm," which word was well known at that time to be used in a legal sense, and so continued

to be used till the present day, as was the practice in all legal proceedings. There was not the least intimation given in the statute, of the legislature's intentions to alter the usual meaning of the word "confirmation" in such proceedings. He had also submitted, with confidence, that the purview of that statute was such as to leave no doubt upon the minds of any party that read it impartially, that the object of the legislature was merely to overthrow the usurped power of the Pope in England. The history of that time would prove that such, and such only, was the object of the statute. He also submitted that there were certain rules of construction which must be adopted by this court with reference to that or any other statute, and that it was the constitution of the country from the earliest periods, from "Magna Charta" to this day, as was provided in the coronation oath, wherever the privileges of the church were concerned, the rights of its members, and more particularly the authority of its bishops and archbishops, the construction of the statute must be according to the strict meaning of the words used in favour of those privileges which had belonged and had been secured to them from the first. And the right which the metropolitan had undoubtedly exercised from the first period of the Christian church over his suffragans was that of judging as to the fitness of a party elected to the episcopacy. When, therefore, the statute in question directed the archbishop to confirm and consecrate the bishop elect, it did not compel him to do so without the usual process of inquiry. The archbishop's court, then, evidently was of a judicial character. He cited the case of *Stradling v. Morgan*, and Viner's "Abridgment," and Bacon's "Abridgment," as authorities; but the rule which he contended for, was suggested by common sense and reason. Foster's case, in the 11th "Coke's Reports," and the case of *Bedell v. Constable*, in Vaughan, were authorities for that rule. Surely, if a court had existed in this country for centuries, it would be doing great violence to the constitution of these realms, if a statute which might interfere with it was not construed in the strictest sense. And such principles of construction must be applicable to the case now before their lordships.

Various authorities might also be cited to prove that where any statute interfered, or might be taken to interfere, with any of the rights or privileges of the people, or any ancient, popular power which had existed to them from early ages, such statute must be construed in the strictest sense so as to preserve as far as possible those rights and privileges. He apprehended that the whole history and scope of the constitution of this country was in favour of that position. They found that view maintained by Viner, Foster, Coke, Bacon, and many others. Let them try this statute of Henry VIII. by that principle of construction, and he would be content to abide by their lordships' decision upon this question; for, if there was one thing more clear than another, it was, that in the early ages of Christianity the rights of the people were of the utmost value and importance in the elections of their bishops, and that those elections of bishops which had not the voice of the people, or their concurrence and sanction, were not to be considered valid or good appointments. There were various authorities upon that subject.

In the first ages of the church, they would find that election of bishops was entirely by the people; it was then confided to the clergy and people; then to the cathedral clergy alone; and finally vested for the most part in the sovereign. From the sovereign, at least in this country, it passed to the chapters; but their lordships would find that in every period,

the church the rights of the people were respected in these appointments; the sanction of the people was considered of the utmost value. He held in his hand a book of considerable authority, both here and on the Continent, a work of a most learned and respected person—he referred to Thomasinus—who treated this subject in a most curious and learned manner, in Book i., chap. 2. In his history of the election of bishops, in the early ages of the church, he quoted a most important extract from a letter of St. Cyprian, in which he spoke of the popular election of bishops, and their examination as to fitness by their metropolitans. The words of St. Cyprian deserved to be immortalized, showing as they did the care that was taken by the early church of the person who was to be set over the people as bishop, and the right of the people to object to him if he was alleged to be lying under any scandal, in order that such scandal might be removed by competent judgment, if it could not be proved, or, if proved, that he might be rejected. But in that right to object on the part of the people there was no interference with the right of the archbishop to judge of the party's fitness. That right was unquestioned and unquestionable down to the time of the Reformation. The archbishop's province was to institute a most careful examination of the objections (when made) to a man proposed for the episcopate; and upon his judgment it depended whether or not the choice of the people should be confirmed. That right of the people to interfere, continued from the first ages of the church, throughout all successive periods, to this day, whether the election was in the hands of the people, or the clergy and the people, or the cathedral clergy alone, or the sovereign of the country. At no period were the people refused the right to make their objections. It would be an endless task to quote passages from Thomasinus to establish that position. The same would be found to be the case on reference to "De Marca, De Concordia Sacerdotii et Imperii," lib. 8, c. 8, where the authority of St. Cyprian and the first councils were cited. And we were not without authority to the same effect in our own country, for in the work entitled "Bingham's Ecclesiastical Antiquities" the matter was fully stated, and he begged to call their lordship's attention to that part of Bingham which referred to these elections,\* and the rights of the people therein; he meant the fourth book of that work, cap. 2, in which Bingham said that there was a difference among authors as to the extent of the people's right to object at elections, as to whether the election was wholly in the hands of the people, or the people and clergy jointly; but in either case, the rights of the people were always respected.

In the whole history of this country, there was no evidence to show that the same religious observance of the rights of the people, at election or nomination, was not respected, and had not been acted upon. Then, if, up to the period of the Reformation, these rights of the people were so respected, surely that fact should have a most important bearing on the construction of the statute of Henry VIII. Their lordships must surely feel themselves called upon to give such a construction to it as should, as far as possible, preserve the ancient rights and privileges of the people, and not to annihilate them, as called upon by his learned friends on the other side. The whole thing, meaning the citation of objectors, said the learned solicitor-general, was, in point of fact, a mere sham; and he said, and said truly, that, by the statute of Henry VIII., the nomination itself was thrown entirely into the hands of the crown, because the *congé d'élire*

\* Bingham's account will be found in the Appendix.



was accompanied by a letter missive, nominating the party who should be elected by the dean and chapter, and none other. If, indeed, the right of objecting to the bishop elect was gone, then the right of the people was also gone. But, surely that would be a most unreasonable and most unrighteous thing to deprive them of those rights and privileges which had been preserved to them from the earliest periods in the most religious manner. It was never pretended before, that the crown had any right to interfere with the confirmation—to the archbishop always belonged the exclusive privilege of inquiring into the fitness of the bishop elect. To assert that the act had deprived the archbishop of that privilege was monstrous, and clearly abhorrent to the principles of construing acts of parliament in this country from time immemorial. If their lordships put such a construction upon the act as was asked for by the learned counsel on the other side, they would deviate from the course which they and their distinguished predecessors had ever pursued; namely, that of preserving, as far as possible, the liberties and rights of the people. Blackstone stated that sheriffs and all sorts of officers in the early period of the history of this country, were subject to the approval of the people. They were the electors of those who were set over them as their rulers. With respect to the appointment of sheriffs, it was of course well known the right of election on the part of the people had passed away; but he felt confident it could not be shown that the right of the people to interfere in the appointment of bishops had passed away. That it had been exercised, imperfectly perhaps at some times, but still exercised, was clear; and he apprehended that their lordships would exercise their accustomed authority by maintaining the prerogatives of the people as well as the prerogatives of the crown, and that they would not allow to be annihilated by a side wind, or a mere constructive interpretation of a statute, rights that had been so guarded and so religiously maintained. He rather apprehended that their lordships would be astute in finding reasons for preserving those rights carefully and anxiously, and transmit them unimpaired and uninjured.

Mr. Justice COLERIDGE—Your argument is, that there was a right of the people to interfere in these elections.

Mr. BADELEY—They had at one time the whole power of electing.

Mr. Justice COLERIDGE—Which right, you said, did not interfere with the metropolitan's right to confirm; but now you say, that the statute has taken away the right of the people to elect.

Mr. BADELEY said that the statute had taken away the right of the people to elect; and if the construction of the statute now contended for on the other side was correct, then the right of the people was gone altogether, for they would have no power to be heard at all. But, though the statute might have rendered the election a sham, that was no reason why the confirmation should also be considered a sham.

Mr. Justice COLERIDGE—Your argument is, that we are to be astute in preserving popular rights. The people had the right to elect, but that is taken away by statute. Is it not the course of your argument to substitute a new popular right to confirm, for the old popular right to elect, which has been taken away?

Mr. BADELEY did not wish to introduce anything new, but to preserve what was old. The subjects' right to elect, had passed away, but the election had always been subject to the right of the metropolitan to confirm, and that right was to be respected; and, therefore, though the power to elect had ceased, the power to object to the person nominated had not ceased with it.

Mr. Justice PATTESON—Do I understand you to say, that, while the bishoprics were donative on the part of the crown, the people still retained their right to be heard at the confirmation?

Mr. BADELEY—Certainly. The authorities that he had referred to on the previous day, distinctly proved, that, although the crown had exercised the right of appointment, it never superseded the rights of the people or the metropolitan respectively to oppose, and confirm, and consecrate parties proposed to be elevated to the episcopacy. The judicial character of the metropolitan in such matters had never been interfered with.

Mr. Justice ERLE—You are aware of the argument that, at the time the king treated bishoprics as donative, he conferred them *per annulum et baculum*, which gave spiritual authority for what was done, and was considered equal to confirmation and investiture.

Mr. BADELEY—Yes; but that did not supersede the power of the archbishop to inquire into the fitness of the party nominated.

Mr. Justice ERLE—During the time when the kings treated bishoprics as donative, do not the authorities of the English law regard the rites of confirmation and investiture, which the kings then granted *per annulum et baculum*, to have been in effect donative also?

Mr. BADELEY—Yes; but this was not considered to supersede the metropolitan's authority.

Mr. Justice ERLE—The statement of Mr. Justice Blackstone on that subject is, that the Pope complained of that as an encroachment on his spiritual authority.

Mr. BADELEY—It was so regarded.

Mr. Justice COLERIDGE—Consecration must always have been performed by a spiritual person.

Mr. BADELEY—Yes; consecration was always performed by the metropolitan. Whether the election proceeded from the crown or the people, the confirmation by him was the same.

Mr. Justice COLERIDGE.—Does confirmation confer spiritual jurisdiction to the bishop elect before consecration?

Mr. BADELEY answered that it did; but that it was the exercise of the spiritual consecration of the metropolitan which made the person elected a perfect bishop. That was established in the case of "*Evans v. Ascuithe*," when it was stated that after confirmation, and not before, the bishop was entitled to spiritual jurisdiction; the same thing was shown in the early chapters of Thomasinus.

Mr. Justice ERLE—Your argument, therefore, in fact is, that till the statute of Henry VIII., the metropolitan did exercise the right of confirming the bishop. Is that consistent with the statement that, from the time of Edward III. till the passing of the statute of Henry VIII., the right of confirmation was exercised by the Pope?

Mr. BADELEY answered, that even then, it only took place by and through the metropolitan. In the time of Edward III. the Pope became more completely possessed of the power of confirmation, and it was in consequence of the exercise of that power by the Pope through the metropolitan that the statute of Henry VIII. was passed, and the right was taken away from the Pope and re-vested in the metropolitan alone. That showed the great importance attached at that time of day by the kingdom and the legislature to the matter, for it was in consequence of that, that the aid of the legislature was called in.

Mr. Justice ERLE.—There is the statute 23 Henry VIII., which recites

the delays in the confirmations consequent upon applications to Rome, and which enables the bishops of this realm to consecrate. That was conferring on them a conditional power, which was made absolute by the 25th Henry VIII., which forbade any appeal to the Pope.

Mr. BADELEY said that it would be found in the history of this subject, that when the Papal Government returned to its proper channel, and there was one recognized Pope, he resumed the authority of appointing and controlling the appointment of bishops, but it was in his capacity of supreme metropolitan or patriarch; and your lordships will find that, as at this day, there was still inquiry into the character and qualifications of the individual appointed. In many instances a regular inquiry was made by means of the bishops in this country.

Mr. Justice ERLE.—Take a period when the Pope's power was at the highest, were the acts of confirmation and consecration done by the Pope at Rome, or did he depute the power to the metropolitan by a bull for that purpose?

Mr. BADELEY.—I believe in some cases the power was deputed to the metropolitan; but when it could be done without inconvenience, the act was done in Rome by a regular process in the ecclesiastical courts there.

Mr. Justice COLERIDGE.—You remember an historical anecdote with regard to the appointment of Anselm, that William Rufus sent to the Pope for the pall for Anselm, and, on receiving it, did not give it to Anselm, but kept it himself, his object being to make terms with the Archbishop.\*

Mr. BADELEY.—Yes, my lord; but as your lordship knows, the pall or pallium† was a mark of authority, which, properly speaking, belongs only to an archbishop. I believe the archbishop of Canterbury wears it to this day. The 23rd of Henry VIII. showed that delays took place in the granting of confirmations by the Pope; and it enacted that in such cases, the bishops should consecrate. The learned counsel here read an extract from the ancient register books of Exeter, which showed that when William Walter Stapylton was elected in 1307, to be bishop of Exeter, the election was contested, and on an appeal being made to Rome, the Pope remitted it to the archbishop in England to confirm by his own right.

Mr. Justice ERLE.—From the time of king John till the Pope exercised his authority, probably the metropolitan confirmed.

Mr. BADELEY.—There were some instances of confirmation by the archbishop. In the register at Lambeth also there were instances of confirmations by archbishop Chichely, when the Pope's power was in existence; but he would still submit that in the process, whether at Rome or in England, a proper, judicial inquiry was made into the merits and qualifications of the individual nominated, in which inquiry the ancient rights of the people were left untouched. The people were left at full liberty to make their objections, and their objections would have been entertained, because, by the canon law, the metropolitan was bound to inquire into any objections that might be made. Barbasa in his "*Jus Ecclesiasticum Universum*," vol. i. lib. 1, c. 9, p. 139, s. 5, said:—

*Confirmare autem electos episcopos non solum Rom. Pontifex, verum etiam metropolitani, vel patriarcha superior, potest. Nam capitulum, cui jus eligendi suum episcopum de jure communi spectat, eidem metropolitano seu alteri superiori mittebat literas sigillo*

\* See Collier's Ecclesiastical History, vol. i. p. 270, folio.

† For an account of the Pall see the Appendix.

suo et singulorum munitas ac per canonicas subscriptas, quæ appellabantur Decretum, in quibus electio facta seriatim narrabatur, et confirmatio petebatur sub forma tradita.<sup>1</sup>

At p. 140, sec. 6, he added :—

Papa vere de jure eos tantum episcopos confirmat, qui in ecclesiis sedi Apostolicæ immediate subjectis electi sunt, vel quorum confirmatio et infirmatio ad eundem sedem per appellationem devolvitur. Regulariter autem electus per metropolitanum suum confirmatur.<sup>2</sup>

And in the same page, at sec. 8, he thus described of what the inquiry was to consist—

Confirmans autem debet de electi vitâ et moribus ac qualitatibus requisitis diligenter inquirere, cum similibus; quod si aliqua ei, antequam confirmetur, crimina objiciuntur, purgare se debet cum requisito numero episcoporum, ut traditum est in Concilio Carthag. IV.<sup>3</sup>

That showed that the power of confirmation was not only enjoyed by the Pope, but by the metropolitan; but when appeals were frequently carried to Rome, that led to the establishment of the Roman power. The voice of the people was always so far respected as to entitle them to make objections; and all the authorities showed that it was the business of the metropolitan to investigate the life and character of the bishop. The learned counsel here cited the second chapter of the 23rd Distinctio of the “Decretum” (part 1), where it was said—

Qui episcopus ordinandus est, antea examinetur, si natura sit prudens, si docibilis, si moribus temperatus, si vitâ castus, si sobrius, si semper suis negotiis cavens, si humilis, si affabilis, si misericors, si literatus, si in lege Domini instructus, si in scripturarum sensibus cautus, si in dogmatibus ecclesiasticis exercitatus; et, ante omnia, si fidei documenta verbis simplicibus asserat, id est, Patrem et Filium et Spiritum Sanctum unum Deum esse confirmans &c.<sup>4</sup>

And then it went on to recite the various articles of faith in which the bishop was to be examined, and proceeded :—

Quum in his omnibus examinatus, fuerit inventus plene instructus, tunc cum consensu clericorum et laicorum et conventu totius provincie episcoporum, maximeque metropolitani vel auctoritate vel presentia, ordinetur episcopus.<sup>5</sup>

Under the 64th Distinctio, c. 5, it was said—

Extra conscientiam metropolitani episcopi nullus audeat ordinare episcopum. Integrum enim est judicium, quod plurimorum sententiis confirmatur. Nec unus episcopus ordinare

<sup>1</sup> “But not only the Roman Pontiff, but also the metropolitan, or the superior patriarch, can confirm bishops elect. For the chapter to which the right of electing its own bishop belongs of common right, sent to the same metropolitan or to another superior, a letter sealed with its seal and canonically subscribed by each, which was called a Decree, in which the election made was narrated in detail, and confirmation demanded under the form laid down.”

<sup>2</sup> “The Pope however, by right confirms only those bishops, who have been elected in churches immediately subject to the Apostolic see, or the confirmation or annulling of which devolves upon the same see by appeal. But as a general rule the elect is confirmed by his own metropolitan.”

<sup>3</sup> “But the person confirming, ought diligently to inquire concerning the life and morals and requisite qualifications of the elect, with the like; but if any charges be brought against him, before he be confirmed, he ought to purge himself before the requisite number of bishops, as is laid down in the 4th Council of Carthage.”

<sup>4</sup> “Let him who is to be ordained bishop, be first examined, whether he be by nature prudent, docile, temperate in morals, chaste of life, sober, always attending to his own affairs, humble, affable, merciful, literate, instructed in the law of the Lord, cautious in the meanings of the scriptures, exercised in ecclesiastical dogmas, and above all, whether he assert the evidences of faith in simple words, i. e. affirming the Father and the Son and the Holy Ghost to be one God, &c.”

<sup>5</sup> “When the person examined shall have been found fully instructed, then with the consent of the clergy and laity, and in an assembly of the bishops of the entire province, and especially either with the authority or in the presence of the metropolitan, let him be ordained bishop.”

presumat episcopum, ne furtivum beneficium proutum videatur. Hoc enim synodus Nice constituit atque definivit.<sup>6</sup>

The same rules were laid down in the several chapters under the 65th Distinctio. He also cited the 26th canon of the fourth Lateran Council, which was entitled, "De Poena indigne confirmantis Electionem," and was as follows:—

Nihil est quod ecclesie Dei magis officiat quam quod indigni assumantur prelati ad regimen animarum. Volentes igitur huic morbo necessariam adhibere medelam, irrefragabili constitutione sancimus, quatenus cum quisquam fuerit ad regimen animarum assumptus, is ad quem pertinet ipsius confirmatio, diligenter examinet et electionis processum, et personam electi, ut, cum omnia rite concurrerint, munus ei confirmationis impendat; quin, si secus fuerit incaute presumptum, non solum deiciendus est indigne promotus, verum etiam indigne promovens puniendus. Ipsum quoque decernimus hac animadversione puniri, si cum de ipsius constiterit negligentia, maxime si hominem insufficientis scientie, vel inhoneste vite aut etatis illegitimae approbaverit; non solum confirmandi primum successor illius careat potestate, verum etiam, ne aliquo casu penam effugiat, a perceptione proprii beneficii suspendatur, quousque, si æquum fuerit, indulgentiam valeat promereri; si convictus fuerit in hoc per malitiam excessisse, graviori subiaceat ultioni.<sup>7</sup>

That canon had been adopted by Lancelottus as his authority for the rule which he had laid down, and the two would be found closely to correspond. It had been said that, as the crown was the party *promovens*, the crown could not be punished; but there had been till late years cases in this country where that part of the rule of the canon law might have been enforced. It appeared from Strype's Life of Archbishop Grindall, b. ii. c. 2, that the last Incumbent of the bishopric of Sodor, or the Isle of Man, being dead, the Earl of Derby, in the year 1570, nominated and presented, according to custom, by letters to the queen, John Salisbury to succeed in that see: and that he was afterwards confirmed by Grindall, the archbishop of York. It had been said that, in this case, the nomination to which bishopric had been until lately in the hands of the Earl of Derby, the usual forms of confirmation might be dispensed with, and that the archbishop of York, who was the metropolitan having jurisdiction over that bishopric, could proceed at once to consecration; but it would appear by the canon law just quoted, confirmation ought to take place, and that a person who promoted an unfit person would be liable to ecclesiastical censure.

If the rights of the metropolitan and of the people were such as he had stated them to be, he would humbly urge on their lordships the necessity of giving effect to those rights, and thus allow the people who were sub-

<sup>6</sup> "Let no one dare to ordain without the knowledge of the metropolitan bishop. For the judgment is perfect which is confirmed by the opinions of many. Neither let one bishop presume to confirm a bishop, lest a furtive benefit should appear to be conferred. For this the Nicene council has determined and defined.

<sup>7</sup> "There is nothing more injurious to the church of God than that unworthy prelates be admitted to the government of souls. Wishing, therefore, to apply the necessary remedy to this disease, we decree by an irrefragable constitution that, when any one shall be admitted to the government of souls, he to whom his confirmation pertains, do diligently examine both the process of election and the person of the elect, that when all things duly concur, he may bestow upon him the gift of confirmation; because if it be incautiously presumed otherwise, not only must the person unworthily promoted be deposed, but also, he that unworthily promotes, punished. We decide also that he himself be punished with this animadversion, that, when there is certain evidence of his negligence, especially if he have approved a man of insufficient knowledge, or of dishonest life, or of illegitimate age; he not only be deprived of the power of confirming the first successor of that person, but also, lest in any case he escape punishment, that he be suspended from the enjoyment of his own benefice, until, if it should be just, he be able to deserve indulgence; if he shall be convicted of having exceeded in this matter through malice, let him be subject to censure."



ject to the jurisdiction of the bishop to assign reasons why the election of a person to whom they thought they had valid objections should not take place. The exercise of this right he held to be perfectly consistent with the general principles of the constitution, as well as of the church herself; and he would contend that any invasion of that right, or any construction of the Act which would put an end to the privilege, would not be consistent with the constitution, or with the principles which the courts of law had been anxious to give effect to, wherever traces of popular rights could be found. There were many things essential to the right exercise of the privilege which could only be known to the people; and, therefore, to debar them from coming forward was to deprive the archbishop of the only means which might be at his command of ascertaining the character of the person whose election came before him for confirmation, and in this way a vast amount of abuse might creep in. He apprehended that a more solemn, a more sacred, a more awfully responsible duty did not exist than that which fell to be discharged by the metropolitan in the act of confirming a bishop. The person so confirmed was placed in the highest office in the church. He was invested with a large, an ample, and, in some respects, an arbitrary power; and, unless the people were allowed to come forward—nay, invited and encouraged to come forward—how were they to know their rights and act upon them? How were they to know that their objections would meet the ear of the authority whose business it was to consider, weigh, and decide upon them? Why, it may happen that a man, nominated and elected to the office of bishop, may have been living in the loosest and most scandalous manner; but can it be supposed that this could become known to the crown, or to the metropolitan, if the people in whose neighbourhood the scandals may have been committed were prohibited from coming forward and telling what they knew? The principle at issue was of vast importance as regarded an acquaintance with the life and doctrine of persons entrusted with such extensive, discretionary, and, to some extent, arbitrary power; and the worst consequences could not fail to arise from the invasion of the privilege under which well grounded objections could be urged to the confirmation. If grounds for scandal existed, should they not be known? If erroneous doctrines and opinions were held and promulgated by the individual, was it not desirable that the means of stating the facts should exist? If it be known that the man was of objectionable morals, was it not essential to the well-being of the church and people, that the means of demanding investigation should exist? As to the plea, that dissatisfied persons may communicate with the archbishop by letter, his answer was, that it would be much more effectual, much more consistent with the principle of fair inquiry, and much more consistent with the principle of the English constitution, as well as with the law of the church, if the parties were allowed to state their complaints openly, and thus enable the accused person to rebut the charges if he could.

He was surprised to see the officers of the crown come forward and claim the power of annihilating the rights of the public as regarded the appointment of bishops; and he begged their lordships most earnestly to pause before they gave effect, as desired by the other side, to a statute passed at such a period in the nation's history, under such a monarch, and under the pressure of such influences. To give effect to such a law would be to convert the archbishop into a mere machine; and the court would thus become instrumental in inflicting an irreparable injury upon the best interests of the church and the people. The question submitted

was so solemn and important, and involved such grave consequences, that he could not press too strongly upon the attention of their lordships the fact, that, if the construction contended for by the officers of the crown were placed upon the act, a construction would have been put upon it which had never been put before.

Much had been heard about the terrors of præmunire, but upon that point he had ventured to assert yesterday that the penalty might be considered extinct as far as the archbishops were concerned, by means of that clause of Elizabeth which directly applied to the penalty; and he had mentioned, also, that he thought he had authority for saying that the opinion of Lord Bacon was, that the archbishop would not be liable to the penalty of præmunire for refusing or delaying to confirm and consecrate the person presented to him. He had found, on reference to the authorities, that the opinion of Bacon may be reconciled with the Act of Henry VIII., and that, although the penalty may apply to the dean and chapter for refusing to elect, it could not apply to the archbishop for refusing to confirm. He said in the chapter, "Preparation towards the Union of the Laws of England and Scotland—Offence of præmunire,"—"Where a man purchaseth or accepteth any provision, i. e., collation of any spiritual benefice or living, from the See of Rome, it is a case of præmunire. When a man doth purchase or pursue in the court of Rome or elsewhere any process, sentence of excommunication, bull, instrument or other thing which touches the king in his regality or his realm in prejudice, it is præmunire. When a man doth affirm any foreign authority of jurisdiction spiritual, or doth put in use or execute any thing for the advancement or setting forth thereof; where the dean and chapter of any church, upon the *congé d'élire* of an archbishop or bishop, do refuse to elect such archbishop or bishop as is nominated unto them in the king's letter missive, it is case of præmunire." Bacon states that if the dean and chapter should refuse to elect, it was præmunire; but he says not one word about the archbishop. He does refer, however, to the archbishop acting in obedience to any bull from the Pope, or the doing of any thing calculated to advance the interests of the Church of Rome, and he says that *that* would involve the penalty of præmunire. It would seem, therefore, that Bacon's construction of the Act was, that the penalty would not apply to the archbishop if he refused to confirm for other reasons than any bull or order from the Pope. If the point was narrowly looked at, it would be found that no indictment could be preferred against the archbishop without being founded upon something as having been done in obedience to a mandate from the Church of Rome. The mere circumstance of refusing or delaying to confirm, without any reference to an order from the Pope, could not be regarded as involving the penalty of præmunire.

He would contend, therefore, that it would be impossible to indict any person, or any archbishop, unless it could be alleged that the delay or obstruction arose from some bull or mandate from Rome. If this be so, what became of all that had been said about the terrors of præmunire as applied to persons who had not acted in obedience to the mandate of the Roman Pontiff? It had been shown that, before the time of Henry VIII., and up to the present time, the act of confirmation was always regarded as a judicial decision, after due inquiry in a court regularly called and held, with citation of witnesses, and that a solemn sentence of confirmation was pronounced. If such, then, was the practice in Henry VIII., and if it had not been set aside since, the conduct

irresistible that the act must be performed according to the usual form, and that there was nothing to show that the act had been converted from a judicial, into a ministerial act. The very terms made use of implied a judicial act; and, if so, he should like to know by what construction of the act of parliament it could be made out that the process had been converted into a merely ministerial transaction. The business of confirmation was not so much a part of the election as of the consecration; and this was clearly laid down in the Commentaries of John de Athon. Whatever, therefore, may be done at the election could not apply by any fair construction of the act of parliament to that which was not part of the election, but part of another thing, and which other thing was required to be performed according all the usages, forms, and ceremonies which existed. One of his learned friends had said that it would be absurd to suppose that a sovereign like Henry VIII. should not do his work perfectly, and take absolute power to himself; and the inference drawn from this was, that, in the matter of confirmation, it must be carried into effect in the same way as the act of election.

Mr. Justice ERLE.—What is it that is confirmed?

Mr. BADELEY.—The election; but confirmation was not so much a part of the election as part and parcel of the consecration.

Mr. Justice ERLE.—If it be a judicial act, it may be done in two ways, either to confirm or to annul; supposing the latter, what is it that is to be annulled?

Mr. BADELEY.—The election; that was the practice under the ancient law. But if it was the intention, as had been contended by his learned friends on the other side, of the Act of Henry VIII. to compel the archbishop to confirm the person nominated by the crown, what was the remedy provided, if the archbishop refused to comply? Why, the case was this; if the archbishop declined, no other authority was competent to perform the act, and the man must remain unconsecrated. In the first volume of Gibson's Codex, p. 114, it was laid down by that learned writer, that refusal to confirm on the part of the archbishop, involved merely the penalty against himself without other remedy. The archbishop may be prosecuted, but his refusal was good. His learned friend (the Solicitor-General) had spoken of the law as being a shadow. That was a strong remark to come from any learned gentleman holding so high an office, regarding a law which laid down certain rules to be observed in the consecration of a bishop.

Mr. Justice COLERIDGE.—Would a mandamus lie against the archbishop for refusing to consecrate?

Mr. BADELEY.—I apprehend not.

Mr. Justice COLERIDGE.—Are the temporalities invested in the bishop before or after consecration?

Mr. BADELEY.—After it.

Mr. Justice COLERIDGE.—Then would a mandamus lie to the bishop to consecrate?

Mr. BADELEY.—It would not. There was a great difference between the condition of deans and chapters, and of bishops. In the former case, every thing was provided for—in the latter, the affair rested in the judicial discretion of the archbishop. The learned counsel then proceeded to refer to extracts from the register of the diocese of Canterbury, to show that the act of confirmation was a most solemn act, and was regarded in a much more serious light than that of a shadow. This proceeding had been called a "*sham*" by the Solicitor-General. If it were, when did it



become so? It was not a "sham" at the Reformation, at the confirmation of archbishop Cranmer. Cranmer, unless he was the greatest hypocrite that ever lived, had thought this confirmation was a most solemn act, for he added these words to the usual form—

"Christi nomine primitus invocato, ac ipsum solum Deum oculis nostris præponentes."

The bishops of Salisbury, of Norwich, of Hereford, and others of that day, were confirmed in the solemn manner he had referred to, after due examination into their doctrines, and after examining and cross-examining parties who could speak to their manner of life and morals. The fact of confirmation was at that period expressed in the most solemn language. Subsequently the words were changed; but, in the case of archbishop Parker's confirmation, the words used in the time of Cranmer were employed.

Mr. Justice COLERIDGE.—You have said that witnesses were examined and cross-examined. Was that done by the archbishop himself, or by his officers?

Mr. BADELEY.—The parties were sifted by the archbishop himself.

Mr. Justice ERLE.—Is there any instance of an opponent coming forward and claiming the right which you are pleading for?

Mr. BADELEY thought there was. He had shown that the act of confirmation was not a sham or a shadow in the time of Cranmer, and at the consecration of archbishop Parker. When did that solemn act become a sham and a shadow? Not in the time of Whitgift; for it was stated in his life that his consecration was judicially and solemnly gone through. It was not a sham in Parker's time, for the whole process was set out and referred to by the judges. At a later period, about the time of Charles II., bishop Fell, in the publication of his Epistle of St. Clement, has given a curious confirmation of the opinion he (Mr. Badeley) had stated. In a note, the learned divine showed what was the practice of the primitive church with respect to the confirmation of bishops, and he declared that that was the practice then prevailing in England. This note was inserted for the purpose of upholding the dignity of the episcopal office, by showing that there was the same care observed here in the appointment of bishops as was taken in the primitive church. Words could not be stronger than those contained in that note to show that those forms used in the election and confirmation of bishops were neither shadows nor shams. The date of the publication was 1669. We had seen already the case of bishop Mountague, and therefore he would not read it again. But there was another account of the transaction in Heylin's Life of Laud, from which it appeared that in the case of Mountague those forms were scrupulously observed. If we wanted further evidence, we had, at a later period, bringing it down to our own time, the authority of Dr. Nicholls on the Book of Common Prayer.† His Commentary is both explanatory and historical; and, in endeavouring to answer the objections of the Romanists, which he does much in the same manner as did bishop Fell—

"The Romanists," he says, "would make the world believe, that our bishops derive not their consecration from bishops, but from princes and parliaments, which is an impudent slander; for our kings do but what belongs to kings, and our bishops what belongs to bishops. As in a vacancy the king by the statute of 25 Henry VIII. c. 20, granteth to the

\* "The name of Christ being first invoked, and placing before our eyes God himself alone."

† See Dr. Nicholls's Supplement to the Commentary on the Book of Common Prayer, p. 46, folio, 1711.

dean and chapter (as of old time hath been accustomed) a licence called *congé d'élire* to proceed to election, with a letter containing the person's name whom they should elect ; which being done and signified, the king gives his royal assent, signifying to the archbishop and his bishops the name of the person elected ; requiring them to confirm the election, and to invest and consecrate the person elected, using all ceremonies and other requisites for the same. Whereupon the archbishop and bishops, proceeding according to the ancient form, do cause all such as can object, either against the manner of election, or person elected, to be cited publicly to make their appearance. When the validity of the election, and sufficiency of the person, are by public acts and due proceedings judicially approved, then follows consecration, which is performed by a lawful number of lawful bishops, and that in such forms as is required by the ancient canons."

Dr. Nicholls then goes on to describe the process of election, investiture, and confirmation, and remarks,—

" Three things concur in the making of a bishop, viz., election, confirmation, and consecration. The confirmation of bishops was a good constitution for the avoiding of schism, and the Council of Nice ordains, that through all provinces it shall belong to the metropolitan. And all the bishops of England are confirmed by their metropolitans, and that by a lawful and orderly proceeding. For when the dean and chapter, by licence from the king, have made the election, certified it under the common seals, and thereunto have obtained the royal assent, the metropolitan with other bishops, by commission from the king, proceedeth to confirm it according to the canons, sending out a public, peremptory citation to summon all personally to appear, which can object anything, either against the party elected, or the form of election. And when, after due examination and judicial process, they are both found consonant to the ancient canons, he confirmeth the election."

When it was found that controversial writers down to the last century appealed to those forms, and to the actual opposition made at confirmations, for the meeting the objections of opponents, could there be a stronger proof that those forms were realities? Charles II. and William III. appointed commissioners for the special purpose of examining into the fitness of those nominated for the episcopal office.\* George III. was also very particular in his selections, and this very care was the reason why no opposition was offered, and why the opposers, though cited, did not appear. But would the mere disuse of a judicial process render it inoperative? Would the disuse of a court, destroy the court itself? The Sheriffs' Court had become almost a nullity, but still it retained its powers. Many instances might be adduced to show that the mere disuse of a court or of a judicial process did not invalidate either. Nothing but an Act of Parliament could destroy them. They still retained their substance and vitality, and might at any time be called into action. His learned friend, Mr. Hill, asked, in a sarcastic tone, how dreadful must the state of Ireland be, where there was no confirmation of Bishops? He (Mr. Badeley) believed that in Ireland that ceremony was omitted, and he thought the omission was a disadvantage to the church. Dr. Rundle, who could not be made a bishop in England, was sent over to Ireland and made a bishop there. This showed the great utility of confirmation. The state of the Irish church, owing to the manner in which bishops were appointed in that country by the minister of the day, showed the importance of preserving to the church the right of objecting to and examining the person selected for the office of a bishop. And, therefore, when Ireland was brought forward, he thought his learned friend was treading on rather tender ground. In the case of the Isle of Man, his learned friend had made a mistake, as the ceremony of confirmation obtained there.

The principles of the Reformation had been referred to in connexion with the statute of the 25th Henry VIII. He (Mr. Badeley) denied that the principles of the Reformation had any thing at all to do with it.

\* See the Warrant of Charles II. in Wilkins's *Concilia*, vol. iv. pp. 607—8; and the Warrant of William III. in Le Neve, *Archbishops of Canterbury*, pp. 243—254.

Both before and since the Reformation it was equally the duty and interest of the church to oppose improper nominations. How could the Reformation make any difference in that matter? But, if the principles of the Reformation were at all involved in this question, those principles were much more identified with those who came forward in Bow church, to oppose the nomination, than with the other parties. The Reformation was not a mere transfer of infallibility and absolute dominion from one Sovereign to another—not a mere change of rulers—the despotism remaining the same. He believed the object of the Reformation was to give to the temporal power that authority which belonged to it, and to the church those rights that were properly hers—to “render unto Cæsar the things that are Cæsar’s, and unto God the things that are God’s.” The crown nominated, the archbishop confirmed; each party had his own rights. If a return to the principles and practices of the primitive church was the object which the Reformers had in view, then he (Mr. Badeley) apprehended that his learned friend was wrong in supposing that all the power that formerly belonged to the Pope, had been transferred to the crown. In the case of dispensations, and in other matters, there was proof enough that no such transfer took place. A long preface to 24th Henry VIII., c. 12, expressly showed that the original rights and duties of the church remained to it. Lord Coke, in *Caudrey’s case*, stated expressly that the intention of the statutes of Henry VIII. and Elizabeth was to restore the ancient rule—to give to the crown its ancient rights and prerogatives, and to the church the rights that belonged to her. How then could his (Mr. Badeley’s) learned friend contend for a moment that it was the intention of the Reformation to give to the crown that authority which the Pope possessed, or to do any thing else than give to the crown that which anciently belonged to it, and to preserve to the ministers of the church the rights that belonged to them. It had been urged on the opposite side that to allow any opposers to come in at the confirmation, would be an interference with the royal prerogative. He (the learned counsel) had been much surprised at the language which had been used in reference to the royal prerogative; it would have done credit even to the times of James I. But Lord Coke had said, that when prerogative was against *Magna Charta* it would not hold. It was not to be exerted against the rights of the people. If the bishop was unfit the archbishop was bound to refuse to confirm the election. That would be no violation of the royal prerogative; it would only be like the case where the crown presented to a living, or where letters patent were repealed, which was on the ground that the crown had been deceived in its grant. It was rather in favour of the prerogative, which professed to make an appointment for the benefit of the church. By this opposition no injustice was done to the bishop elect. He knew that a citation would be made, and that persons would be challenged to come forward and oppose him. He was not taken by surprise. But the bishop was not appointed for his own benefit; he was appointed for the advantage of the church; and if it could be shown, upon proper, legal, judicial inquiry, that, owing to his doctrines or his character, his appointment would be an injury to the church, surely common reason showed that he ought to be rejected. Looking at the question with reference to the crown, the state, the church, the individual, or the diocese to which he was appointed, it was most important for the interests of all parties, and the interests of religion itself, that such an inquiry should take place.

But consider the mischief that might be done by taking the

course—look at the tremendous consequences that might ensue if this power of objection were not preserved. The minister of the day might then nominate to the office of a bishop any party, however unfit. He might appoint a person disqualified by age, morals, or doctrine. He might appoint a common layman, and have him consecrated without his going through the intermediate orders. We might then have a person forced on to consecration, without having ever subscribed the Thirty-nine Articles, and this person would be constituted the judge of the doctrine and morals of the clergy, and he would exercise an arbitrary control over the whole diocese. So far, then, as the principles of the Reformation were concerned, the argument would cut both ways; for an improper prime minister might appoint a person opposed to the doctrines of the Reformation, and favourable to Romanism; and, if that minister remained long in office, he might fill half the bishoprics in the United Kingdom with such persons. He asked their lordships whether, in common justice, common reason, or common law, it could be said that the applicants, in seeking to enforce what had always belonged as a matter of right to the people of these realms, could be said to be making an attack upon the prerogative of the crown? Let their lordships consider the effect of refusing their application. If they discharged this rule, they would not only let loose the prerogative royal, they would give unrestrained power to the prime minister of the day to appoint whom he chose to a bishopric; they would destroy the ancient and undoubted rights of the people; they would annihilate the ancient jurisdiction of the archbishop. They would, if they refused the prayer of the applicants, convert the archbishop, in his metropolitan character, into a mere machine, as mere and complete a machine as the veriest and humblest clerk in the office of the secretary of the home department, whose province was merely to copy letters at the dictation of another party. They would make the metropolitan a mere registrar; nothing more. As a mere machine, he might be called upon to perform the most high, the most solemn, and the most sacred act of the Christian religion. They would call upon him to prostitute his office (for it became nothing more than a prostitution of office) at the beck of the first minister of the crown. They would call upon him to consecrate any person, good, bad, or indifferent, be he infidel or Romanist, be he whatever he might. Whatever objections there might be raised against him—however objectionable his life or his morals, however unsound his faith, whatever might be his opinions, yet, according to the doctrine laid down by his learned friend, there was no alternative. No person could appear in Court to make any objection at all. No objection could be entertained by the archbishop. Nothing could be done. The decree of the prime minister of the crown was to be final and conclusive. The archbishop would have no more power than the merest individual in the realm.

But was that interpretation of the statute agreeable to common sense or common law? Could the rights of the highest order of the clergy be so tampered with and destroyed? Could the dearest and most solemn rights of the people be thus easily destroyed and annihilated? He was quite sure that this court, in accordance with the anxious care which it had always manifested in the preservation of the rights of all parties, would never allow such a doctrine to be laid down. He felt, with confidence, that their lordships would give effect to the ancient rules and the ancient laws of this realm. With these observations he would leave the subject in their lordships' hands with confidence, though certainly not

without anxiety, for it was impossible not to see and know, that the greatest interest was felt in this question from one end of the kingdom to the other. All in the church, as well as out of it, felt deeply interested in the question, which was not so much whether Dr. Hampden was fit or unfit for any particular bishopric, as the principle which it involved. The case of Dr. Hampden shrunk into perfect insignificance when compared with the question now before their lordships. The mischief caused by Dr. Hampden, or any other individual, would be of small extent and limited duration. He must ere long die and be buried, but the mischief occasioned by an improper determination of this case must continue for ever. Was the Church of England, then, to be perpetuated by means of the mere beck of the prime minister of the day? and were her bishops, priests, and deacons, to be treated as mere machines? If their lordships decided that this rule should be discharged, the consequences must be of the most tremendous character, and it was fearful to contemplate the extent of the mischief which might thence arise. He did, therefore, most earnestly and anxiously implore their lordships, in the name of the church—in the name of the state—and in the name of our common religion—to look carefully and anxiously at this subject with that religious tone and devout feeling, which he was quite sure their lordships possessed, and to make, as he was quite confident they would make, this rule absolute.

SIR FITZROY KELLY next addressed the Court. He said he had to solicit their lordships' indulgence for a very short time only, whilst he proceeded to address their lordships upon this most important case, sincerely assuring the Court that, considering the long and able discussion which it had already undergone, and that it was with some personal difficulty, and perhaps at some risk, that he could address their lordships at all, nothing less than the high and commanding importance of the questions involved in this case, would have induced him to occupy one moment of their lordships' time, even by uttering a single sentence further in this argument. But he considered the importance of the question involved in the issue of this argument as almost unspeakable. So far as that, he must say that he was greatly relieved from the anxiety and the distress which he should otherwise feel at his own inability at that moment to do justice to such a case, from the almost conviction (if he might simply venture to use that word) that he also felt that such was the all-commanding importance of this case, that unless (which the present state of the argument seemed to contradict) all of their lordships should feel every point in this case, wholly clear and free from any approach to doubt, they would do as their lordships had always done, and as their predecessors had done, viz., abstain from finally determining such a case, involving such considerations and such consequences, upon the mere affidavit now before their lordships; but that they would decide that the case ought to be fully tried in the proper court, so that, if necessary, the question involved in this case might be afterwards taken before the highest tribunal in this kingdom. For what was the question involved in the case now before their lordships? It had been fully urged by his learned friend, the Attorney-General, that the prerogative of the crown was assailed in this case; but surely, their lordships would not forget that, if the question of the prerogative of the crown were involved in this case, so also were the highest interests of the church and the people of this country. It was a case in which was involved the character and efficiency, in his proceedings, of one of the most exalted ministers of the church. It involved the respect and reverence in which these proceedings were henceforth to be held, and the confidence to be henceforth



reposed in them by the entire people of this country. It involved, moreover, not only the temporal interests (for that were little) of the clergy of the diocese or see of a bishop, but the eternal interests of the whole of the Christian community of this country.

What was the real nature of this case? It had been said, on the part of the Attorney-General, that this was a question touching the prerogative of the crown, and the prerogative of the crown only. He (Sir F. Kelly) said at once, and he believed he said so when addressing their lordships upon the motion for this rule, that the applicants in this case sought not to deny or impeach in any wise the prerogative of the crown. They admitted that prerogative. They admitted, to the fullest extent, the exclusive and unassailable right of the crown to nominate a clergyman who should be elected and chosen to fill a bishopric within this kingdom; but he must entreat their lordships to bear with him, whatever degree of consideration they might think it right upon this stage of the argument to bestow upon this case, whilst he maintained that there was a very great distinction between a right, whether in the crown, in the people, in the clergy and the people, or in other parties,—to nominate to an ecclesiastical dignity, and the question of deciding by an archbishop, or some other high minister of the church, to examine if the party nominated were fit to be confirmed and consecrated to such office. The right of nominating was one thing, the process of confirmation was another. The one might be in the hands of popes, princes, or people; the other must be, having an ecclesiastical character, and touching the rites and most solemn duties of the church, exercised by ecclesiastical authority. Was he defending any new doctrine in this case? He must beg leave to remind their lordships that, whilst, on the one hand, he admitted, and cheerfully admitted, the power of the crown to nominate at its pleasure any one whom it should deem fit and right to make a bishop in this country, he still contended that the power, the right, the solemn duty of the archbishop, or some high ecclesiastical authority, to go through the process of examining whether such party were fit for the office of bishop, and, if found upon examination to be sufficiently qualified, of confirming such party, had existed in every Christian community on the surface of the earth, unquestioned and undenied; acted upon, with variations, indeed, in point of form, in various countries, but acted upon solemnly, deliberately, and undeniedly, from the time of the apostles themselves, down to the very hour in which he was addressing their lordships. It began at the period which he understood had been referred to in the course of the arguments of his learned friend, viz., the time of the apostle Paul, who prescribed the manner of proceeding in his Epistle to Timothy; and it had so continued, without change or variation, except, indeed, in mere matters of form, to be exercised, and to be solemnly imposed by the heads of the church, of every Christian church, under all circumstances, and even among all sects, and all changes of religion, down to this present time. And it was this, which was one of the most solemn acts of the church, one of the most solemn proceedings or processes by which mankind in general could be interested, that, by the law officers of the crown of the present day, was to be denounced or rejected as a mere trifle, a vision, an unsubstantial point. He (Sir F. Kelly) denied that it ever had been a form, and he trusted that their lordships would not now, for the first time, allow it to be treated as a form: and he could not, in considering this question, help at that moment reminding their lordships that if this were a form, if the citation of opposers to come and put forth their objections in due form against the fitness of an individual about to be confirmed to a high office by the highest minister in the church, were in itself but a form, and the

confirmation on the part of that act—if the whole matter were to be treated as a vain, frivolous, and insignificant form; if that were so, if the proceedings which took place at the confirmation and consecration of Parker after the statute of Henry VIII. had been confirmed, were to be denounced as mere forms, and to be treated almost with contempt; why, then, it came to this, that the legislature of this country had denounced as frivolous and contemptible, that which the gospel had strictly commanded to be observed in the confirmation and consecration of the hierarchy of the Christian church. He could not understand the ground upon which such an argument could be put forth in this highly Christian country.

But let them see what was the difference and distinction to which he was entreating their lordships' attention—between two important portions of the act which perfected a clergyman of the church in the office of bishop—between the nomination or election by which an individual was proposed for confirmation, and the mode of conducting that act of confirmation. Their lordships would then have to consider what it was before this act of Henry VIII. Although he was ready to admit that act of parliament settled the question of nomination, yet he denied that the process of confirmation and consecration was altered, except so far as all interference on the part of the Pope was cut off. He thought he should be able to satisfy their lordships, not by any authority, for there was no authority bearing upon the question, except those numerous authorities to which his learned friends had referred, showing that this was a part, and a material part, in the process of confirmation; but he should satisfy their lordships, upon the clearest principles applied to the ordinary meaning of the English language as used in this statute, that what the statute really contemplated to effect, and did effect (as he was glad to know), was to destroy most effectually the whole power, influence, and right of interference on the part of the Pope in this country, in the nomination or election, confirmation or consecration of bishops in this country. But the process of confirmation was left altogether untouched; all that the act contemplated, and did in reality effect, was the exclusion of all interference on the part of the Court of Rome. Now, the person or authority in which election or nomination had been vested, had varied in many countries, and in many generations. There could be no doubt that originally, in the very first ages of the Christian Church, the immediate admission to this office—for he could not call it appointment, as there was neither profit nor station belonging to it, but, on the contrary, danger, suffering, and labour—in those days the admission to the office of bishop was either, in the first place, from the apostles, or, secondarily, from those distinguished persons in the early Christian church, who stood in the position of those we now call archbishops and bishops; but as the Christian religion happily spread over Europe, and as the various countries became obedient to its doctrines, then, indeed, the bishops were elected sometimes by the people, sometimes by the clergy, often subject to the approbation of the princes, and, in Roman Catholic times, by the Pope, whether by direct nomination or by confirmation. So that in various countries, and at various times, the right of election has thus varied.

He agreed with his learned friend in the history which he had given of the election of bishops in this country; indeed, at the earliest times, they had every reason to believe that the election was in the people, subject to the approbation of the crown, and then it was vested in the hands of the crown altogether. Then, in the contest which took place in the disturbed times of Henry I. and John, the election was not so definitively settled; until by various statutes it was at last determined that the

nomination lay in the king, and that the Pope had the power of issuing bulls—a very important authority, for the proceedings could not go on without those bulls—for the purpose of authorizing the ceremonies without which a bishop could not be made. The nomination thus so far became vested in the crown, and remained in this condition until it was altered in reference to the Pope by the 25th Henry VIII., which most effectually put an end to all interference on the part of the Pope, and left in the crown the absolute, sole, and exclusive power, not, indeed of nominating bishops, for that was not the form of expression in the act, but of causing the particular individual whom the crown might name to be elected, providing that none but he should be elected. But, during all this time, what became of the question of confirmation? Now he would not weary their lordships by again going through the authorities which had been cited in such numbers upon this occasion, but he ventured to say that no one authority, foreign jurist or canonist, or any English jurist or canonist, nor any judge, civil, or ecclesiastical, had been found, or could be found, to show that any bishop was ever confirmed without the usual examination into his fitness by the proper ecclesiastical authority for that purpose appointed. No such case had ever occurred in this or any other country. There was no such case. But what did take place? Why, that which was the foundation of the canon law throughout Christian Europe—that which was the foundation of the common law of this realm—that which was the foundation and the usage which had prevailed in this country unvaryingly, at least for three hundred years, since the passing of the act of parliament—that which they found in the holy Scripture, namely, in the Epistle of Paul to Titus—that which was the foundation of the law which had prevailed ever since.

He would not refer their lordships, as he understood his learned friend (Mr. Badeley) had already done so, to the precise words of the Epistle of Paul to Timothy, in which the apostle spoke of the word of God having been made manifest, the spread of Christianity in Greece, the necessity of a bishop to superintend the flock, and the necessary qualifications of such a minister, whose fitness must be first most carefully and most solemnly inquired into, both as to soundness of doctrines as well as of morals. They had the apostle commanding Titus to take care that those who were appointed bishops should be of sound doctrine, that they might refute the objections of gainsayers, so that the whole church of God might maintain the pure word entire. And now, after the proceedings instituted by the apostle himself had been observed unvaryingly for 1800 years by the entire church, were they to be told that it was a mere idle form, and that it ought, in fact, to be rejected and despised? In all the early councils held in those countries over which Christianity spread, such as the Councils of Carthage, Nicene, and other early councils, the same process substantially was laid down in the matter of confirmation. There was first an inquiry and examination by the archbishop, bishop, or other high officer, as to the fitness of the person nominated. Then came the canonists, and, as regarded them, his learned friend had contended, but it was a mere assertion, without the shadow of proof, that, whatever was found in common law jurists, and taken from the foreign jurists, did not appear to have ever been adopted as law or usage in England. All the great foreign jurists, however, Lancelottus, Ferraris, Van Espen, and others, were found to agree, not in so many words, nor precisely in the same form, in pointing out the process of confirmation, but the same directions were set forth, and the foreign jurists were quoted in Lyndewode, Ayliffe, Gibson and Burn. He believed there was a time when the name of archbishop did not exist; but when Christianity spread and became established in many parts of Europe.



and when the ministers acquired their names, it appeared that confirmation was sometimes performed by an archbishop, sometimes by six bishops, and sometimes by three; and often, indeed, which was the only source of doubt on the subject, by the Pope himself; but, in all times, and under all circumstances, confirmation was performed by a purely ecclesiastical authority, never with lay authority, or with lay interference. This was the way pointed out by foreign jurists, and declared to be the law and custom of this country by English jurists; and this continued to be the state of matters till the time of Henry VIII. In Germany, where great temporal authority was possessed by ecclesiastics, and in England, where the bishops were merely the highest dignitaries of the church, and in every other country where Christianity is established, whatever the mode of election might be, whether the nomination was in the people or otherwise, the act of confirmation was distinguished from the act of election. An exceptional case had indeed been adduced by his learned friends on the opposite side, and they had made the most of it; still it went to show that, even in that instance, the power of making inquiry into the doctrine, the piety, and the morals of the bishop elect existed. Lancelottus, who wrote of those early times, was a Perugian, a native of the Roman states; he wrote within the Roman states and for his countrymen, and when he asserted that a particular ceremony did not take place, his meaning was, that the Pope did the whole himself—nominated, inquired into, approved, and confirmed, thus rendering it unnecessary for any inferior ecclesiastic to perform the act of confirmation, seeing that it had already been done by the highest ecclesiastical authority of the day, and the highest authority to this day in Roman Catholic countries. When his learned friend referred to the case of *Coke Jahnes*, it should be borne in mind that that case only referred to the right of nomination in lieu of election; and he agreed with his learned friend in the opinion that the power of election was completely invested in the crown. But the authority of the common law, and the practice of every Christian country, went to show that, in whatever hands the power of nomination might be, there was no perfect title to the office of bishop without the intervention of the clergy. When his learned friend said that foreign law was never a part of the law of this country, how was it that there was no where found a judicial authority, or any extract from a judicial record, showing that the act of confirmation, as performed in foreign countries, was not performed in the same way in England? The text writers treated the practice in England and in foreign countries as being the same; and the learned Gibson, in his *Codex*, had treated the practice as part of the law and usage of England, exactly as it was in other countries. It was for the purpose of showing that the universal impression among all learned men was, that the law and usage was the same in all Christian countries, which induced him to cite the case from *Palmer* and *Sir William Jones*. That case showed that the various stages laid down for perfecting the title had reference to what was to take place after the election; and it must not be forgotten that the rules he was referring to constituted the usage from the time of Elizabeth to the other day, when the present question occurred at Bow Church.

He would now turn to the statute, because it showed very clearly that what, upon historical authority, and upon the authority of all foreign and English jurists, he and his learned friends had submitted as the process of confirmation, was, and ought still to be the law. The great question was, whether the act of Henry altered the process of confirmation, dispensing with, or nullifying any thing, which, by the constitutional law of England, and the whole of Europe, had been made part of the process of confirmation? or whether that act merely excluded and destroyed the power and

interference of the Pope, and conferred the power of nomination on the Crown, by making the election of the person nominated compulsory? He thought he would be enabled to show, by a brief reference to the leading provisions of the Act, that, strong and peremptory as it was in providing for the total exclusion of the Pope, and conferring upon the crown the absolute right of commanding the election of the person nominated, that it left the process of confirmation, and the power and duty of confirmation, according to the practice and doctrine of all Christian countries, in the archbishop exactly as it existed before. The manner in which he had referred to the title of the act had been made a subject of merriment; but he had referred to it to show that the only material part of it, from the commencement to the very last line or letter, was all directed against the Pope, and against the interference of the Pope; and he would refer to that very section in the act which was quoted by his learned friends opposite as tending to show that the object of the act was not only to confer upon the crown the right of compelling the election of a particular bishop, and also to exclude the Pope from all power in the election, but that it did point out, and limit, and define the process and ceremonies to take place after the election, and after the approbation of the crown had been signified, so as to perfect the bishop in his office; and, inasmuch as that act strictly enjoined election, therefore all interference in the after stages must be treated as mere matters of form. That was the argument of his learned friends opposite. Now, he thought he had shown that, by the direct terms of that part of the statute most relied upon by his learned friend the Attorney-General, it was provided and enacted, and made the law, that the whole processes of confirmation and consecration were to remain as they were before, saving the interference of the Pope. The learned counsel here quoted several sections of the act, with the view of establishing that position, contending, over and over again, that the act made no change as regarded confirmation. He also quoted a clause from the 23d of Henry VIII., with the view of strengthening his case.

When they were told that the archbishop was commanded to proceed, and to confirm and consecrate the person nominated and elected at the instance of the crown, he and his learned friends would contend that nothing more was implied or intended than that the confirmation and consecration should take place according to the usage and doctrines of the common law of the realm. His learned friends opposite asserted that all such forms and inquiries were rendered by the act mere matters of useless and impertinent interference, and that confirmation and consecration were merely ministerial acts which the archbishop was commanded to perform under the penalty of *præmunire*. Their lordships would observe that in the section of the act which his learned friends had mainly founded their argument upon, the provision was, that, as regarded both confirmation and consecration, the penalty of *præmunire* would be incurred by the archbishop if he refused to perform both acts within twenty days. The argument of his learned friends was that confirmation and consecration must be performed within that time, whatever may take place in the course of the process or the ceremony either of confirmation or consecration. He would come in a few minutes to show what the actual process was in respect of confirmation,—a process which had been in practice for nearly three hundred years, without the slightest deviation or variation, and which, if it held good with respect to confirmation, must be held as equally good with respect to consecration. According to the argument of his learned friends, the archbishop must, however unfit he might find the bishop elect to be, consecrate him under the pain of *præmunire*. Now, if that were so, and if the act of parliament were

imperative in making the act of confirmation a mere ministerial act in the face of anything and everything, he would assert, in the first place, that what was there enjoined in the act of parliament was directly contrary to the form of consecration which was in the Book of Common Prayer, and which was not to be found in the act of Henry VIII. In fact, it was merely saying in so many words, "You, the archbishop, when I, the king, send to you my letters patent, are forthwith, no matter what may be the character of the person I nominate and have caused to be elected, to proceed to confirm and consecrate him. You must reject all forms and ceremonies which interfere with the absolute performance of my commands."

Under such circumstances, he (Sir F. Kelly) must say that the form of consecration which was in the Common Prayer Book, and which was universally adopted, was not merely a mockery, which was bad enough, but was a direct violation of the act of parliament, because it was impossible to read the act of parliament as conveying an absolute and unconditional command, and not reject those ceremonies as impertinent, and in violation of the act of parliament, which were laid down in the Book of Common Prayer. For what did we find? He would go no further than to refer to one of the many questions which, in this ceremony of confirmation, was put by the archbishop to the bishop-elect; and this was a question which bore immediately on the present case, because it touched the question of fitness in point of doctrine. The archbishop would have to ask—

"Are you persuaded that the holy Scriptures contain sufficiently all doctrine required of necessity for eternal salvation through faith in Christ Jesus? and are you determined, out of the same holy Scriptures, to instruct the people committed to your charge, and to teach or maintain nothing as required of necessity to eternal salvation but that which you shall be persuaded may be concluded and proved by the same?"

The bishop-elect answers—"I am so persuaded and determined, by God's grace."

They were now upon a case involving a point of doctrine touching a belief in which the bishop-elect lay under a wide-spread suspicion of unsoundness. They were upon the subject whether every question was a mere form or not. In turning to this part of the ceremony of consecration, which was acted upon by the church, he found that the answer to that question involved an essential part of the character and qualifications of a bishop; and he (Sir F. Kelly) would ask the Attorney-General, who said that this was a mere form which might be struck out, whether, if the bishop-elect should say, "I am not so persuaded," in answer to that question, the archbishop would be bound to consecrate him? That was a question which the Attorney-General was bound to answer, and which must be answered, in order that this case might be determined. One provision in the statute of Henry VIII. inflicted the penalty of præmunire on the archbishop if he did not confirm and consecrate within twenty days. The Attorney-General must show, that, according to that section, the archbishop was bound to consecrate the bishop-elect, although he were a Romanist or an infidel. The Attorney-General said that the crown named to the Dean and Chapter, and they were bound to elect the individual named, and no other. Then the archbishop must, within twenty days, confirm and consecrate the bishop so named. If confirmation were a mere ministerial act—if the archbishop was to be a mere automaton in the discharge of his duties—if he was, without inquiry, to confirm and consecrate any one the crown might recommend to him, although upon inquiry he might find the person recommended totally unfit for office—then he (Sir Fitzroy Kelly) would say that the ceremony was worse, far worse, than a mockery—it was an impiety, which it would be indecent to impute to the legislature, or to any one whose duty it was to carry our laws into execution.

It was said that the act contained a coercive power, which it was the intention of the arbitrary tyrant who enacted it to confer upon the crown, and that if the crown promoted an unworthy person, the subject had no redress—no means of obtaining a good, worthy, and efficient bishop. But, co-extensively with that power of the crown, there existed the sacred and ancient power of the church to inquire into and examine the doctrine and sufficiency of the person so appointed before the archbishop went through the solemn form and ceremony of confirmation and consecration, and before the person selected by the crown acquired a power over the temporal and eternal interests of the people committed to his charge. It was said that this attempt to enforce inquiry was an attack on the prerogative, and on the principles of the Reformation. He did not deny the unqualified power and prerogative of the crown, but surely it was extensive enough. He would not interfere with the power of the crown to nominate bishops, but surely there was nothing unreasonable or unjust—nothing irreverent or indecorous towards the crown, in holding, that, co-existent with the full and undoubted power of the crown to nominate, there should be a power in the highest ministers of the church to examine into and determine upon the fitness of the person nominated. He admitted that neither the crown, nor any minister of the crown, would knowingly nominate an improper person; but it was lest an improper person should be nominated that the highest party in the church had been appointed to examine into his qualifications. There was nothing in that disrespectful to the crown. This power to inquire into the fitness of the bishop-elect was founded on a statute passed in the reign of Henry VIII.

The Solicitor-General had said:—"Is it to be presumed that the crown would appoint, or any prime minister dare to recommend, a person unfit in point of doctrine?" Even in these times the crown might be deceived and the minister mistaken; but it should never be forgotten that the statute was passed, not so much to govern the times of a George III. or a Queen Victoria, as of a James II., who, if he could, would have filled a whole bench with Roman Catholic bishops. And what security had we, if ever we should have over this nation a monarch of the opinions and faith of James II., if there were no power in the heads of the church to consider the fitness, piety, doctrine, and religion of the person nominated? What security had we, under such circumstances, that the whole bench of bishops would not be Roman Catholics. If the archbishop had not the power of examining into the fitness of the bishop-elect, he (Sir Fitzroy Kelly) knew no way of escaping from the painful and wicked ceremony of placing on the bench of bishops of this protestant country the Roman Catholic persons recommended by the crown.

There was surely some confusion in the argument, that, because it was the object of the statute to take this power from the Pope, therefore it was intended to dispense with one of the most solemn and important religious ceremonies known to the Christian church. Suppose the same kind of controversy existed as to the nomination and presentation of individuals to the benefices in general. Suppose that the crown had the exclusive power of presenting all persons to all the benefices of the kingdom, and that the bishops were opposed to the claims of the crown; and suppose that this caused a controversy which terminated in favour of the crown; and suppose an act of parliament was passed reciting the controversy, and all that the lay patrons alleged against the sacred rights of the crown; and then followed an enactment that thenceforth all persons presented by the crown should become the beneficed clerks of those benefices, and should be appointed without reference to their lay patrons. Suppose there had been an

act like that, what would have been the consequence? That it would have taken from the lay patrons their patronage no one could dispute. It would have vested clearly and exclusively in the crown the nomination and presentation to all benefices in the country, as he (Sir F. Kelly) admitted, this act had vested the original nomination of bishops in the crown. But would that put an end to the right or duty of the church to inquire into the fitness of those parties? The man so presented would be nominated by the crown but before he was inducted he would be examined by a bishop. It was one of the great and necessary powers of the bishops of this country that no one could accept a benefice without the approbation of the bishop. And would any one say that such act, along with putting an end to the controversy between the pope and the crown, put an end also to the right and duty of the church to examine into the fitness of the person nominated? Looking at the statute itself; looking at the divine origin of the proceeding; looking at the long period of time during which it had been invariably adopted in all Christian countries before any one could be made a bishop of the Christian church; looking at the mode in which it had been laid down by foreign and English jurists; it appeared to him that that was the form, and process, and mode by which bishops were to be confirmed in this country.

He apprehended their lordships would pause before they would introduce in favour of the prerogative of the crown a provision, altering and putting an end to, and for ever destroying this most holy, solemn, and important ceremony and proceeding on the part of the church. What was the true intent of the legislature in passing that act? He believed its meaning and object must be present to the minds of those who had to act upon it. It did not appear to be acted upon in the reign of Henry VIII.; it was suspended in the reign of Edward VI., and, by the prevalence of the Roman Catholic religion, during the reign of Mary; it was revived during the 1st of Elizabeth, and that was the time that the people of this country could best understand how and in what way it was to be observed. It was said that the whole ceremony and process after the notification to elect was a useless form, which ought not to take place, because it was in contradiction to the act of parliament. If that were so, the time of Elizabeth was the period when such forms would be dispensed with, and the law allowed to prevail. For it was the first great occasion when the reformed religion became the religion of the country; and it would be surely on the first occasion in her protestant reign, when an archbishop would be appointed, and when it was necessary to appoint him under that act of parliament, that a precedent would be laid down to govern the high authority of the church. And what did we find then took place? Why, on the election of archbishop Parker, when the statute of Henry VIII. was revived, and when the whole country was directed to those questions concerning the supremacy of the sovereign, and the exclusion of the authority of the pope, the carrying into effect of this act of parliament would show in what way the people understood it; and what was the process which then took place? Why, in the case of Parker, every step and stage of the proceedings which he (Sir Fitzroy Kelly) said was matter and substance, a religious duty and necessity—but which the learned gentlemen on the opposite side described as an idle and delusive form; every step of that proceeding took place in the case of Parker. Was the act of confirmation a ministerial act that was to be performed within twenty days, under the penalty of *præmunire*?

He (Sir F. Kelly) thought he was right in saying that, in the first place, the proceeding was not complete, for the confirmation did not take place within the twenty days at all. It was found from the records which



Dr. Addams quoted from Bramhall's book (published in the Anglo-Catholic Library), that the whole of the proceedings were precisely and fully in conformity with the canons of the church. Every part of the usual forms was observed; the citation of opposers, and the examination of witnesses on their oaths, as to the fitness of the bishop, took place exactly as he (Sir F. Kelly) contended it ought to take place. How was he to meet the argument or the assertion that all this was the law of foreign canonists, and never was the law of this kingdom. How could it be disproved? There was no proof in support of the statement, it was said. How did he meet it? It was said that it never was the law. He was asked to show them any law-book in which it was stated that such was the law, or the usage. Let a single instance be shown, from the first of Elizabeth down to the present proceedings in reference to Dr. Hampden, in which any mention was made of a step similar to the present. There was none. And when he found that at the time when, of all others, such a step might have been attempted on the part of the crown, as it was said by the Attorney-General, might be successfully and lawfully attempted; when he found that neither under King Henry VIII., nor Queen Elizabeth, who, if not quite so tyrannical as her father, was at least as reluctant as he to part with any of the prerogatives of the crown; when he found that even in those times of trouble the ancient rights of the people to object at confirmation was not interfered with, the only conclusion that he could come to was, that the act of Henry did not even contemplate the annihilation of or interference with the proceedings at confirmation. From the time of the passing of that act until the present day the usage had been the same. He would not refer at length to the case of Dr. Mountague, because in that a regular discussion of the grounds of objection did not take place in consequence of their not having been tendered in due form of law. From the proceedings which took place in the first year of the reign of Elizabeth, viz., the consecration of archbishop Parker, down to the present, there had been no change. The right of the people to object had never been disputed. An inquiry or examination into the fitness of the party proposed had invariably taken place before consecration. With regard, then, to the citation of the opposers, or whether there was an inquiry into the qualification of the bishop-elect as under the law of this country, and was part not merely of the power and right, but of the duty, of the archbishop, all authorities were uniform in all history upon that subject. The history of this country, and of all other Christian countries, proved that such had been the law and usage. Again, if the statute were urged against him, he had to submit to their lordships that the statute contained no provision against it; that, as far as they found any express provision in the statute, these processes or ceremonies of the church were preserved unaltered, instead of being dispensed with or set aside. And then they found that under the statute, and upon the proceedings that had since taken place since it was revived in the first year of the reign of Elizabeth, such had been the constant and unvarying process of confirmation, and since the time that the proceeding was introduced into the Book of Common Prayer, and after that the proceeding of consecration. That alone, therefore, disposed of the whole of that branch of the question. Ingenious suggestions had been made by the learned gentlemen on the other side as to the difficulties as to this court interfering, even supposing the act of the archbishop, with regard to confirmation, were of a judicial character. They suggested that, if this court could interfere, the proper remedy would be to *appeal, and not ask for the issue of a mandamus.* Now, what was the *nature of this court?* Had their lordships the power to enter into an *examination of the alleged unsoundness of Dr. Hampden's doctrines?* Had

they the power to go through the usual judicial forms necessary to the due administration of justice in that respect? Why, he certainly heard with some surprise a remark that had fallen from his learned friend, Dr. Bayford, who argued this case on the other side, that the great difficulty in this case was, that Dr. Hampden could not be made a party to the suit in the Metropolitan's Court. Why, it was true that in ordinary cases in that court, proceedings could not be said to be "*in foro contentioso*." But although the bishop could not appear in person, there could be no doubt, he thought, as to his right to appear by proctors, on proper articles being exhibited. That, at least, was the mode of proceeding in every other ecclesiastical court. And when the articles had been duly exhibited against him, it was quite competent for him to meet the charges by means of his proctors. He could not conceive how the bishop could be prevented from so doing. The Dean and Chapter would appear in his defence, because it was they that had elected him and made the return to the archbishop's court. They set forth the allegations in his behalf, and would, of course, be permitted to maintain them, if disputed. If necessary, he had no doubt that it was competent to the archbishop to exercise a contentious jurisdiction by citing witnesses, and determining on adverse testimony. He conceived that such a power was inherent in the Metropolitan of all England when justice required it. He had surely the power of administering that justice which his office implied and imposed upon him. He recollected that the late Lord High Chancellor Lyndhurst decided that an inferior court might exercise all such powers as were necessary for the due performance of the duties which were imposed upon it by the law. Lord Brougham gave a similar decision in another case of that description. He (Sir F. Kelly), therefore, apprehended that, by virtue of the archbishop's judicial as well as ecclesiastical office, he had the power of hearing witnesses and deciding upon conflicting testimony. The jurists and canonists, the writers of other countries as well as of this, stated that all these proceedings did invariably, at all times and in all countries, take place with considerable minuteness. Then, in steps which were to be taken in relation to opposers at confirmations, could it be supposed that the court of the Archbishop of Canterbury, the highest ecclesiastical judge that we had in this realm, had not all the powers which were incidental and necessary to the administration of justice? Could they really suppose that that high court was so miserably defective and insufficient, when lord chancellors had decided that the lowest court in the kingdom could do everything necessary for the due execution of the trusts confided to it? He must admit that he was not so familiar with the proceedings in ecclesiastical courts as to say that the archbishop's court had the power of citing and hearing witnesses; but he did venture to take for granted that if they found in the canons of the church, in the text books of this country, a certain process could be carried out in the court of the archbishop, that court had the inherent power of doing everything necessary to the administration of justice in the cases that might come before it.

Again, it had been said that they should appeal, in a case of this nature, under the Church Discipline Act. But under that act no proceedings could take place after the lapse of two years from the time the offence or the wrong had been committed. Why, then, suppose any bishop elect had erred in point of doctrine more than two years previous to his nomination, the charge could not prevail. He (Sir F. Kelly) apprehended that that difficulty, so thrown out on the other side, was of no weight whatever. Again, it had been said that the court of the archbishop could not select

the objections against Dr. Hampden, because there had been no conviction on which to found the proceedings; but there were thousands of cases in the history of inferior courts, in which an examination had been made into a party accused, without his having been first proved guilty by the regular constitutional means. In support of that assertion, he need not do more than remind their lordships of the case which had recently occurred in this very court, in which an application to have an attorney of the court, named King, struck off the Rolls, because of his improper conduct, was granted by their lordships, although the fact of his guilt had not been proved by any conviction in an inferior court.

Suppose a charge of perjury were laid against a bishop at his confirmation, would the archbishop wait until the charge was proved by a recorded conviction? He could not delay longer than twenty days after the receipt of the sovereign's letters commanding the confirmation and consecration of the bishop, or he would be subjected to the pains of *præmunire*. Would it be contended, then, that the archbishop must consecrate without entertaining the charge at all? Suppose the charge were perjury, must the archbishop proceed to make the man involve himself deeper in crime by tendering oaths to him, which he suspected were not even intended to be observed? Would the archbishop be compelled to confirm and consecrate a man who might be proved to be an infidel? It was monstrous to suppose that the archbishop was precluded from inquiring into the objections to such parties. It had been said that no *mandamus* would lie, because this was a matter purely of spiritual jurisdiction. But let their lordships see what was the meaning of that proposition, which was very vague, and conveniently so to those parties who had urged it. It had been said that this court had refused to issue a *mandamus* to compel payment of a church-rate. And why? Because the proper course was to proceed for a subtraction of church-rate in the ecclesiastical court. Now, he entirely admitted the justice of that principle. Their lordships would not usurp the functions of a court spiritual. With regard to the case of church-rates, their lordships might as properly have been asked to issue a *mandamus* to compel the restitution of conjugal rights, which was the subject exclusively of an ecclesiastical court. But in this case their lordships were not asked to decide upon the merits; all they were asked to do was to exercise their ancient prerogative of compelling an inferior court to proceed to entertain the case of the applicants. The present was a case in which an inferior court refused to hear parties at all, and if their lordships did not interfere by *mandamus* there would be no remedy.

The learned counsel then referred to the *King v. the Justices of Kent*, and quoted the opinion of Lord Ellenborough, which was to the effect, that if the justices rejected the application in the exercise of their discretionary power the court would not interfere; but if they rejected the application on the ground that they had no power, the court would interfere so far as to cause the justices to hear the parties. If at the confirmation in Bow Church the court had heard the parties, and had then decided that by law and usage they could not interfere, he had doubts if their lordships could interfere in such a case, seeing that it would be to correct an error, and not simply to cause the parties to be heard. Where the parties held, however, that by the statute of Henry VIII. they had no power to hear, there was a misconstruction of the act, and the parties who could not get a hearing were entitled to apply to their lordships for a *mandamus*.

Now one word as to the parties themselves. And here he would remark that the importance of the present case was altogether too high to enable their lordships, consistently with their rules, to determine it one way or



another. Who were the parties, then, who had opposed the confirmation of the bishop, and had incurred the consequences of doing so? Two out of the three were clergymen who lived in the diocese of Hereford, one lived elsewhere, but he may hereafter succeed to a benefice within the diocese of Hereford. Let the court consider the situation in which that gentleman may, ere long, actually stand. Let him (Sir F. Kelly) suppose that the gentleman to whom he referred was about to be presented to a benefice within the diocese of Hereford. He knew that, by the present law, he could not be instituted and inducted before undergoing an examination by the bishop as to his doctrine and teaching, and obtaining his sanction to his institution and induction. He may know that on some points, and he (Sir Fitzroy Kelly) would not presume to say what those points were, but he may know, and strongly suspect and believe, that the bishop entertains peculiar opinions and tenets, wholly at variance with the Thirty-nine Articles of the Church of England. This, then, was the situation of the gentleman. A citation was made, calling upon all persons to come forward and state their objections, under pain of being declared contumacious if they failed to show that they had just grounds of opposition. The gentleman appeared, with the intention of stating that a bishop was about to be confirmed in spiritual authority in a diocese as to whose religious tenets and opinions he had reason to be doubtful, "If the bishop's views are right then mine are wrong. Both cannot be right; and if the bishop acts conscientiously he cannot consent to my being inducted to a benefice within his diocese, and I must be rejected. I appear before my spiritual judge, and call upon him to decide which of us is right and which wrong. I come to state that I believe the bishop elect believes and entertains opinions contrary to the fundamental doctrines of the Church of England—will you, the archbishop, or your vicar-general, decide between us? If you find my opinions to be right and his to be wrong, then I do oppose the confirmation, and I pray you not to force upon us a bishop, who, if he acts upon his convictions, must exclude me and every other orthodox clergyman from living within his diocese, because we entertain correct views on the subject of religious doctrine, while he does not." Upon the bishop depended the admission of every clergyman who might succeed to a benefice hereafter within his diocese, the ordination of every priest and deacon—all these things depended upon the perfect orthodoxy of the bishop's religious doctrines; and these were the points which, from the apostles downwards, had constituted subjects of inquiry previous to confirmation, but which were now sought to be denounced as unmeaning, frivolous, and absurd.

He had now done with the case; and would conclude with an earnest appeal to their lordships as to the high and unspeakable importance of the point at issue. It had been said, as matter of complaint by his learned friend the solicitor-general, that this proceeding tended to disturb (he did not say, he believed, that the parties sought to do any such thing), the peace of the church. The peace of the church may be as much disturbed by the appointment of one to the high office of a bishop who laboured under deep and wide-spread suspicion of unsoundness of doctrine and of teaching, as by any honest, conscientious, and straightforward opposition which could be made to his confirmation. Justice, the people, and after times would determine the point; for it was not their lordships who could decide which of the contending parties, if contending parties there were, who were responsible for disturbing the peace of the church, and of irritating the people of this country. He would conclude by expressing his earnest hope and confidence that, in dealing with this question, their lordships, unless contrary to all that he and his learned friends thought and

believed would be the case, were so clear and free from all approach to doubt upon the question at issue as to enable them to pronounce judgment at once, would do as they had always done, and their predecessors had done, put this great and solemn question into a course of inquiry by which (perhaps he might be allowed to say with the greatest deference) it could alone be justly and satisfactorily settled.

The ATTORNEY-GENERAL rose in reply.

Lord DENMAN : We apprehend, Mr. Attorney-General, that you have no right to reply unless you show us that you are so entitled.

The ATTORNEY-GENERAL contended that as the prerogative of the crown was involved in the inquiry, he had an undoubted right in that court of the crown to have the last word.

Lord DENMAN said the crown was the prosecutor in this case, and he would therefore wish to see some precedent for the right contended for.

The ATTORNEY-GENERAL said there was no precedent, for the best of all reasons ; that the attempt to strike a blow at the prerogative of the crown was of very rare occurrence indeed. In the Exchequer Court the right to the last word was invariably allowed. The learned counsel then referred to the case of *Rowe and Brent*.

Lord DENMAN—Perhaps I am wrong in interfering at all ; for, perhaps, the opposite party do not intend to interfere.

Sir F. KELLY—Yes ; I was about to rise—

Lord DENMAN—Was there not a case in the Exchequer Court where Baron Parke laid down the rule, which has been since acted upon ?

After some desultory discussion,

Sir F. KELLY said that he would rest his objection to the Attorney-General's claim upon the single principle that their lordships would not increase and extend the prerogatives of the crown, which they would be doing were they to sanction the claim now set up. He apprehended, with respect to the right of reply, or any other exercise of the prerogative of the crown against the subject, if a precedent could be found, the court would act upon it ; if a precedent could not be found, the court would not make one. In the case of *Lord Douglas v. the Officers of State*, 9th Clarke and Furmlay, page 200, it was held by the House of Lords that the Attorney-General had not a right to reply.

After a short discussion as to the practice of the Exchequer Court,

Sir F. KELLY hoped their lordships would not, in a question of this kind, arising indirectly and incidentally between the crown and the subject, deny the subject that right he had, and thereby extend the prerogative of the crown. As his own experience did not furnish him with any other cases of this kind, perhaps some of the officers of the court might be able to supply cases in point.

Lord DENMAN—We are very jealous of this idea of vested right in counsel to make a reply. Whenever we hear any counsel in reply, we do so because we think the subject may require further argument. We think it is the right of the court to say whether the question should be argued further on the other side or not. We have the right always to prescribe the course which we think most convenient. It appears now to us that it would be convenient, on this occasion, to hear the Attorney-General.

The ATTORNEY-GENERAL said he thanked their Lordships for the indulgence extended to him, but, at the same time, he hoped their Lordships would not consider him disrespectful in stating that he appeared in his prerogative right. It would not become him, in the absence of argument on the other side, to occupy much of their Lordships' time, and in the few remarks which he intended to make he would confine himself to the statute

of Henry VIII. He quite agreed with his learned friends in deeming this to be a case of the utmost importance. It was important as affecting the interests of the crown, and as affecting the interests of the people, but it was far more important as affecting the peace of the church, the security of the Establishment, and the well-being hereafter of those interested in the advancement of our true religion. But he was at a loss to understand what called for the appeal from Mr. Badeley to the sound religious feelings of their Lordships. Their Lordships' decision would be arrived at with the same careful attention which they bestowed on every other case of equal importance. He agreed with his learned friend, Sir Fitzroy Kelly, that this was a case of the greatest importance, but he dissented from him in thinking that their Lordships were to yield from any notions of practice which might have prevailed here or elsewhere to take a step the inevitable consequences of which would be to instil men's minds for a lengthened period with views which were wholly inapplicable to their matter. He apprehended that unless their Lordships saw, in a matter of this novel description, clearly and plainly their way as to the necessity of a *mandamus*, they ought not to stay the ordinary execution of the law; that they ought not to interfere unless they were satisfied, beyond the possibility of a doubt, that they were not likely to miscarry. His learned friends, Mr. Badeley and Sir Fitzroy Kelly, contended that this motion infringed not on the prerogative of the crown, and Mr. Badeley drew a refined distinction between the *placing* and the *making* of bishops. In illustration of that argument he asked, could it be pretended that if a bishop found a priest unfit for any government induction, it would be an interference with the prerogative of the crown to refuse his sanction? Far from it. The presentation to livings, founded on patronage, was no part of the prerogative. By the 25th of Edward III., chapter 3, such gifts were placed on the ground of simple unprerogative patronage, and the right was given to try the right of presentation under the patronage of the crown. There existed no analogy whatever between the two cases. The nomination to bishoprics proceeded by prerogative from the head of the state, and in respect of endowments founded by the crown itself, and given by the crown in right of its prerogative. He came now, therefore, to what, in his view, was the correct construction of the statute, and he should confess that, after having attended with great anxiety to the arguments of his learned friends on the other side, from the commencement to the end, he could only think that they had raised difficulties on themselves, and that the more they referred to the ancient canonical institutions on this subject, the more certain did the construction of the statute become for which he contended. Before alluding to that matter, however, he wished to make a remark on the observations with which his learned friend, Sir F. Kelly, had so forcibly concluded. In referring to the *status* of the objectors, he pointed out the injury which might result to them hereafter in the diocese of Hereford. He said that what they thought was true doctrine might, in the opinion of the bishop, be false doctrine, and that an appeal to the archbishop to decide the point between them was therefore imperative.

He (the Attorney-General) wished to take up that argument at a much higher point. He wished to consider the difficulties that must suggest themselves to their Lordships' minds if they were to listen to this application to have the law and doctrine of the bishop decided by his friend, Dr. Burnaby, the vicar-general—difficulties which could only be prevented by the exercise of the prerogative of the crown. Assuming that the court made the rule absolute, the question would come to be considered by the archbishop or his vicar-general. It was not, however, too much to presume

that shades of difference in faith might prevail in York and Canterbury, so that they would have that decided to be sound in Canterbury which was held to be unsound in York, or the reverse. What was to be the result? Who was to determine as to the soundness of doctrine? They might have prevailing, with no responsibility, varieties of doctrine in York, and in Canterbury, and a third in Ireland, where the minister of the crown was the sole judge as to the fitness of the bishop. If their view were correct, there was an appeal originally to the delegates, but now, by transfer, to the Privy Council. But, in case of appeal, who would have to decide this question of doctrine? Laymen. The question would be referred from the archbishop to laymen, whose only qualification is their being summoned to Her Majesty's Privy Council. Bishops might be summoned also, but they might be overruled by the lay-members of the Privy Council. The whole case, in whatever way they regarded it, was surrounded by difficulties, if they did not seek to get rid of them in one way, and that was the most simple and easy way in the world, by making the temporal head of the church the medium of selection for the officers of the church, and by vesting in Her Majesty's responsible ministers the choice of the persons to fill the offices in question.

It would have been impossible to have penned a statute which could have put an end to the whole question, and the difficulties attendant upon it, more conclusive than that of Henry VIII. The very passage quoted by his learned friend, Sir F. Kelly, would be quite sufficient to satisfy any doubts which might be entertained as to the intention of the framers of the Act. According to the canonists and jurists in the old form of election, certain persons only were qualified to elect, and no person could try the validity of the election save the pope only, who acquired that right by usurpation. [The court would observe that since the passing of the statute of Henry VIII. the word "Canonicè" had been omitted in the passage relating to the election of bishops.] Where the election was strictly conducted according to the old form, the person who presided at it might inquire into the fitness of the party to be elected, or the qualification of the electors, but that was the whole extent of his power under the strictest form of the old canonical proceeding. The Constitutions of Othobon, and those of Peckham, which had been so often referred to in the course of the argument, did not apply to the appointment of bishops at all, and were solely intended to regulate the appointment of inferior dignitaries. There was not a word about confirmation in them; and, remembering that those canons only were law which had been sanctioned by statute, or admitted by custom, he thought they were left quite in the dark as to the constitutions they were to receive, or the doctrine they were to follow in a matter of so much doubt and difficulty. Without going back to the time of Edward for the development of those conflicts between the pope and the sovereigns of this country—conflicts in which they had either maintained their rights against, or had, as in the case of king John, yielded them to the See of Rome, he would call the attention of the court once more to the statute of Henry VIII., against *annates* granted to the pope, which strictly forbade any such payments, or the procuration of papal interference, in the disposal of bishoprics or benefices. In 23 Henry VIII. another act of a similar nature with respect to its spirit against the See of Rome was enacted, but with this distinction, that it left it discretionary with the king to suspend its operation, in order that he might negotiate with the pope; but the 25th Henry VIII. which followed, reciting the purposes of the previous statute, and declaring that the pope had not yielded in the attempt to negotiate with him on the part of the king, enacted that the provisions of

the former statute should be peremptorily enforced, and the 23 Henry VIII. should be made absolute. The third section enacts that no person shall be presented to any living, nor procure any bull, &c., from the bishop of Rome, and that if any person be nominated to any bishopric by the crown, and be let or hindered in his investiture thereof by any archbishop, by reason of his lack of the pall, or ring, or other thing to be obtained from the See of Rome, he shall be consecrated, &c., by any two bishops whom the king may appoint, in the same manner as archbishops had been made, invested, and consecrated, that was by nomination merely, and by receiving the staff and ring from the king.

The reference which had been made by his learned friend to the penalty of *præmunire*, in connection with this act, could easily be explained. On the dissolution of monasteries, in the time of Henry VIII., a large portion of ecclesiastical property became vested in the hands of laymen. It would have been too strong a proceeding for queen Mary to have taken away those lands from those laymen, and, therefore, by the statute 1 and 2 Ph. and Mary, c. 8, 40, a *præmunire* was threatened against any one who disturbed the occupation of the property so invested; and on the repeal of that statute, in the reign of Elizabeth, nothing which affected the application of the *præmunire* was abrogated. That explanation met the objection of his learned friend (Mr. Badeley), who did not make his case stronger by the use he made of Lord Bacon's authority. The election, in fact, was, in the words of his learned friend the Solicitor-General, a shadow and a sham, and no one could deny it was so, inasmuch as it was imperative on the officers that they should proceed to perform the ministerial duties assigned to them.

His learned friend (Sir F. Kelly) was shocked at the idea that such a solemn form as the offering up of prayer should precede the business of confirmation if it were nothing but a useless ceremony, and that the whole of a proceeding which had so dignified a commencement should be utterly void. But the election took place in the midst of the service of the day, and the canonists state that the *Te Deum* was sung in thanks for the assistance that had been given them in the work of the day. In fact, the whole form of the old election was preserved—in the words of Gibson, “there was a seeming election wherein we see the footsteps of the more ancient way of election,” but that was all the consideration that could be attached to it, and it was no great stretch of the argument to say that any objection to the solemnity which preceded it would be applicable to confirmation also.

His learned friend asked if it was not dreadful to think that there should be nothing to prevent heretics, quite unfit to take charge of the church, from being confirmed as bishops? Was it not equally so to think there should be no prevention in the case of heretics sent to be *elected*? Suppose that such a man be sent to the dean and chapter of Hereford to be elected, and that they knew the fact, they can do nothing whatever to avoid the election, and they have no choice but to proceed to the election, and elect the very man of whose guilt they are certain. Again, assume that the confirmation had been regular, that all necessary proceedings were observed, that parties had been called on to appear and oppose, and have not done so, and that after confirmation, and before consecration, the person confirmed commits some heinous offence, perjury for instance, and the archbishop knows he has done so, what is to be done? Can he refuse to consecrate? *Certainly not*. The act of Parliament in the provisions of the statute of Edward VI., directs that certain questions are to be put at the ceremony, to which answers must be given. This was no safeguard, for the greater the guilt of the offender, the more ready would he be to commit



perjury in his replies. The Archbishop has no right to put any other questions than those prescribed, and the statute provides that these proceedings shall be good to all intents and purposes; so that he cannot but obey its provisions, nor can he in any degree deviate from its regulations without being liable to its penalties. In this case, extreme as it was, *consecration must proceed*. These matters indeed had not been overlooked, and in the very pamphlet before their Lordships, in which observations on the subject had been collected by a gentleman attached, at the time of their publication, to a high church party, but since, he (the Attorney-General) was sorry to say for his own welfare, a member of a church still higher (the Roman Catholic), a passage was quoted, in which Francis Mason commented on this question.

MR. JUSTICE COLERIDGE,—Perhaps you are mistaken with respect to the name of the gentleman who wrote that book, Mr. Attorney.

THE ATTORNEY-GENERAL,—Perhaps so, my Lord. I did not mention any name, but I am sorry I made any allusion to it at all.

MR. JUSTICE COLERIDGE,—I should not have said anything about it, but in these times anything of the sort is sure to be taken hold of.

THE LORD CHIEF JUSTICE,—It appears, Mr. Attorney-General, you have not only misinformed as to the name of the person who wrote this pamphlet, but as to his opinion and sentiments.

MR. JUSTICE COLERIDGE,—I believe that the author of that pamphlet is a gentleman who has very recently written a work against the Church of Rome.\*

THE ATTORNEY-GENERAL was very sorry for having made the assertion. He was about to say that even that pamphlet, which had been quoted on the other side, showed clearly that the only alternative in the cases suggested was by appealing to the crown to permit a delay to take place until the fitness of the bishop-elect had been duly examined into. As he had said in the course of his opening speech, the only object of these ceremonies now used at confirmation was to show (as they must all be interested in showing) the connection between the reformed and the ancient church, as it existed in this country prior to the Reformation. He again took the liberty of reminding their Lordships, that he had challenged the opposite side to produce a single case in which proceedings like those now sought for had ever taken place under the laws of the church in this country. They had not, amongst all the authorities which they had quoted, produced one single instance. At the time that the statute of Elizabeth was passed, all the bishoprics were donative, in which cases confirmation was not requisite. The honourable and learned gentleman concluded by respectfully requesting their Lordships on account of the great interest in this case, to deliver their judgments on as early a day as their convenience would permit.

The court then rose, at half past four o'clock.

\* The pamphlet here alluded to, and which was frequently referred to in the course of the proceedings, is entitled "*The Royalty of the Crown in Episcopal Promotions, according to the Judgment of Divines, Canonists, and others of the Church of England.*"

## JUDGMENT.

COURT OF QUEEN'S BENCH, TUESDAY, FEB. 1, 1848.

THE QUEEN V. THE ARCHBISHOP OF CANTERBURY, AND DR. BURNABY,  
HIS VICAR-GENERAL.

It being known that the Court would this day proceed to give Judgment in this case, the greatest interest was excited both among members of the bar, the clergy, and others, anxious to hear the decision. Among those present on the bench during the judgment were Lords Campbell and Monteagle, the Bishop of Llandaff, Mr. Beresford Hope, M.P., the Rev. J. Keble, and the Rev. W. Dodsworth.

Mr. JUSTICE ERLE being the junior Judge, proceeded to his judgment. The Court, he said, had been moved by the applicants to issue a writ of mandamus to compel the Archbishop of Canterbury to hear and decide on the objections which they were prepared to offer against the confirmation of the election of Dr. Hampden, Bishop elect of Hereford, on the ground of the unsoundness of some theological opinions published by him some years ago. In support of the application it had been pretended that the Archbishop, before confirming the election of a Bishop, in pursuance of the statute 25 Henry VIII., cap. 20, was bound to try judicially the validity of the election; and that persons present at the time of the election had a right to state to him their objections to the person elected, and demand his judgment thereon; and that that right might be enforced by mandamus in case of refusal on the part of the Archbishop. To that it had been answered, that the provisions of the statute were in direct contradiction to this pretended right of opposers. The question, then, depends upon the construction of that statute (the 25th Henry VIII., chap. 20), which is intituled, "An Act for the Nonpayment of Firstfruits to the Bishop of Rome." It recites—

"Where sithen the beginning of this present Parliament for repress of the exaction of Annates and firstfruits of archbishopricks and bishopricks of this realm wrongfully taken by the Bishop of Rome, otherwise called the Pope, and the see of Rome, it is ordained and established by an act, among other things, that the payments of the Annates or firstfruits, and all manner of contributions for the same, for any such archbishoprick or bishoprick, or for any bulls to be obtained from the see of Rome, to or for the said purpose or intent, should utterly cease, and no such to be paid for any archbishoprick or bishoprick within this realm, otherwise than in the same act is expressed; and that no manner of person or persons to be named, elected, presented, or postulated to any archbishoprick or bishoprick within this realm, should pay the said Annates or firstfruits, nor any other manner of sum or sums of money, pensions or annuities for the same, or for any other like exaction or cause, upon pain to forfeit to our Sovereign Lord the King, his heirs and successors, all manner his goods and chattels for ever, and all the temporal lands and possessions of the said archbishoprick or bishoprick, during the time that he or they that should offend contrary to the said act, should have, possess, and enjoy the said archbishoprick or bishoprick. And it is further enacted, that if any person named or presented to the see of Rome by the King's Highness, or his heirs or successors, to be bishop of any see or diocese within this realm, should happen to be letted, delayed, or deferred at the see of Rome, from any such bishoprick whereunto he should be so presented, by means of restraint or bulls of the said Bishop of Rome, otherwise called the Pope, or other things requisite to the same, or should be denied at the see of Rome, upon convenient suit made, of any bulls requisite for any such cause, that then every person so presented might or should be consecrated here in England by the archbishop in whose province the a

bishoprick shall be: so always, that the same person should be named and presented by the King for the time being to the said archbishop. And if any person being named and presented (as is aforesaid) to any archbishoprick of this realm, making convenient suit, as is aforesaid, should happen to be letted, delayed, deferred, or otherwise disturbed from the said archbishoprick, for lack of pall, bulls, or other things to him requisite to be obtained at the see of Rome, that then every such person so named and presented to the archbishop might and should be consecrated and invested, after presentation made as is aforesaid, by any other two bishops within this realm, whom the King's Highness, or any his heirs or successors, kings of England, would appoint and assign for the same, according, and after like manner, as divers archbishops and bishops have been heretofore in ancient time by sundry the King's most noble progenitors, made, consecrated, and invested within this realm. And it is further enacted by the said act, that every archbishop and bishop, being named and presented by the King's Highness, his heirs and successors, kings of England, and being consecrated and invested, as is aforesaid, should be installed accordingly, and should be accepted, taken and reputed, used and obeyed, as an archbishop or bishop of the dignity, see, or place whereunto he shall be so named, presented, and consecrated, and as other like prelates of that province, see, or diocese, have been used, accepted, taken, and obeyed, which have had and obtained completely their bulls and other things requisite in that behalf from the see of Rome; and also should fully and entirely have and enjoy all the spiritualities and temporalities of the said archbishoprick or bishoprick in as large, ample, and beneficial manner as any of his or their predecessors had or enjoyed in the said archbishoprick or bishoprick satisfying and yielding unto the King's Highness, and to his heirs and successors, all such duties, rights, and invests as before time hath been accustomed to be paid for such archbishoprick or bishoprick according to the ancient laws and customs of this realm and the King's prerogative Royal, as in the said act among other things is more at large mentioned.

"2. And albeit the said Bishop of Rome, otherwise called the Pope, hath been informed and certified of the effectual contents of the said act, to the intent that by some gentle ways the said exactions might have been redressed and reformed, yet nevertheless the said Bishop of Rome hitherto hath made none answer of his mind therein to the King's Highness, nor devised nor required any reasonable ways to and with our said Sovereign Lord for the same: Wherefore His most Royal Majesty, of his most excellent goodness, for the wealth and profit of this his realm and subjects of the same, hath not only put his most gracious and Royal assent to the foresaid act, but also hath ratified and confirmed the same, and every clause and article therein contained, as by his letters patent under his great seal inrolled in the Parliament roll of this present Parliament more at large is contained."

It then proceeds in the third section to enact that,

"Forasmuch as in the said act it is not plainly and certainly expressed in what manner and fashion archbishops and bishops shall be elected, presented, invested, and consecrated within this realm and in all other the King's dominions, be it now therefore enacted by the King our Sovereign Lord, by the assent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, that the said act and everything therein contained shall be and stand in strength, virtue, and effect; except only that no person or persons hereafter shall be presented, nominated, or commended to the said Bishop of Rome, otherwise called the Pope, or to the see of Rome, to or for the dignity or office of any archbishop or bishop within this realm, or in any other the King's dominions, nor shall send nor procure there for any manner of bulls, breeves, palls, or other things requisite for an archbishop or bishop, nor shall pay any sums of money for Annates, firstfruits, nor otherwise, for expedition of any such bulls, breeves, or palls; but that by the authority of this act, such presenting, nominating, or commending to the said Bishop of Rome, or to the see of Rome, that such bulls, breeves, palls, Annates, firstfruits, and every other sums of money heretofore limited, accustomed, or used to be paid at the see of Rome for procuration or expedition of any such bulls, breeves, or palls, or other thing concerning the same, shall utterly cease and no longer be used within this realm, or within any the King's dominions, anything contained in the said act aforementioned, or any use, custom, or prescription to the contrary thereof notwithstanding."

Then comes the mode in which Archbishops and Bishops are to be appointed, section 4:—

"4. And, furthermore, be it ordained and established by the authority aforesaid, that at every avoidance of every archbishoprick or bishoprick within this realm, or in any other the King's dominions, the King our Sovereign Lord, his heirs and successors, may grant to the prior and convent, or the dean and chapter of the cathedral churches



or monasteries where the see of such archbishoprick or bishoprick shall happen to be void, a license under the great seal, as of old time hath been accustomed, to proceed to the election of an archbishop or bishop of the see so being void, with a letter missive containing the name of the person which they shall elect and choose. By virtue of which license the said dean and chapter, or prior and convent, to whom any such license and letters missive shall be directed, shall with all speed and celerity, in due form, elect and choose the same person named in the said letters missive to the dignity and office of the archbishoprick or bishoprick so being void, and none other. And if they do defer or delay their election above twelve days next after such license or letters missive to them delivered, and for every such default, the King's Highness, his heirs and successors, at their liberty and pleasure, shall nominate and present, by their letters patent under their great seal, such a person to the said office and dignity so being void as they shall think able and convenient for the same; and that every such nomination and presentment to be made by the King's Highness, his heirs and successors, if it be to the office and dignity of a bishop, shall be made to the archbishop and metropolitan of the province where the see of the same bishoprick is void, if the see of the said archbishoprick be then full and not void; and if it be void, then to be made to such archbishop or metropolitan within this realm, or in any the King's dominions, as shall please the King's Highness, his heirs and successors; and if any such nomination or presentment shall happen to be made for default of such election to the dignity or office of any archbishop, then the King's Highness, his heirs and successors, by his letters patent under his great seal, shall nominate and present such person as they will dispose to have the said office and dignity of archbishop, being void, to one such archbishop and two such bishops, or else to four such bishops within this realm, or in any the King's dominions, as shall be assigned by our Sovereign Lord, his heirs or successors.

“5. And be it enacted by the authority aforesaid, that whensoever any such presentment or nomination shall be made by the King's Highness, his heirs or successors, by virtue and authority of this act, and according to the tenour of the same, that then every archbishop and bishop to whose hands any such presentment and nomination shall be directed, shall with all speed and celerity invest and consecrate the person nominated and presented by the King's Highness, his heirs and successors, to the office and dignity that such person shall be presented unto, and give and use to him a pall, and all other benedictions, ceremonies, and things requisite for the same, without suing, procuring, or obtaining hereafter any bulls or other things at the see of Rome, for any such office or dignity in any behalf. And if the said dean and chapter, or prior and convent, after such license and letters missive to them directed, within the said 12 days, do elect and choose the said person mentioned in the said letters missive to them directed, according to the request of the King's Highness, his heirs and successors, thereof to be made by the said letters missive in that behalf, then their election shall stand, and be good and effectual to all intents; and that the person so elected, after certification made of the same election, under the common and covent seal of the electors, to the King's Highness, his heirs or successors, shall be reputed and taken by the name of the lord elected of the said dignity and office that he shall be elected unto; and then making such oath and fealty only to the King's Majesty, his heirs and successors, as shall be appointed for the same, the King's Highness, by his letters patent under his great seal, shall signify the said election, if it be to the dignity of a bishop, to the archbishop and metropolitan of the province where the see of the said bishoprick was void, if the see of the said archbishop be full and not void; and if it be void, then to any other archbishop within this realm, or in any other the King's dominions, requiring and commanding such archbishop to whom any such signification shall be made, to confirm the said election, and to invest and consecrate to him all such benedictions, ceremonies, and other things requisite for the same, without any suing, procuring, or obtaining any bulls, letters, or other things from the see of Rome for the same in any behalf. And if the person be elected to the office and dignity of an archbishop, according to the tenour of this act, then, after such election certified to the King's Highness in form aforesaid, the same person so elected to the office and dignity of an archbishop shall be reputed and taken lord elect to the said office and dignity of an archbishop, whereunto he shall be so elected; and then after he hath made such oath and fealty only to the King's Majesty, his heirs and successors, as shall be limited for the same, the King's Highness, by his letters patent under his great seal, shall signify the said election to one archbishop and two other bishops, or else to four bishops within this realm, or within any other the King's dominions, to be assigned by the King's Highness, his heirs or successors, requiring and commanding the said archbishops and bishops, with all speed and celerity, to confirm the said election, and to invest and consecrate the person so elected to the office and dignity that he is elected unto, and to give and use to him such pall, benedi-

tions, ceremonies, and all other things requisite for the same, without suing, procuring, or obtaining any bulls, briefs, or other things at the said see of Rome, or by authority thereof in any behalf.

"6. And be it further enacted, by authority aforesaid, that every person and persons being hereafter chosen, elected, nominated, presented, invested, and consecrated to the dignity or office of any archbishop or bishop within this realm, or within any other of the King's dominions, according to the form and effect of this present act, and suing their temporalities out of the King's hands, his heirs or successors, as hath been accustomed, and making a corporal oath to the King's Highness, and to none other, in form as is aforesaid rehearsed, shall and may from henceforth be thronized or installed, as the case shall require, and shall have and take their only restitution out of the King's hands of all the possessions and profits, spiritual and temporal, belonging to the said archbishoprick or bishoprick whereunto they shall be so elected or presented, and shall be obeyed in all manner of things, according to the name, title, degree and dignity that they shall be so chosen or presented unto, and do and execute in every thing and things touching the same, as any archbishop or bishop of this realm, without offending the prerogative royal of the Crown and the laws and customs of the realm, might at any time heretofore do.

"7. And be it further enacted, by the authority aforesaid, that if the prior and convent of any monastery, or dean and chapter of any cathedral church, where the see of an archbishop or bishop is within any of the King's dominions, after such license as is aforesaid rehearsed shall be delivered to them, proceed not to election and signify the same according to the tenour of this act, within the space of twenty days next after such license shall come to their hands; or else, if any archbishop or bishop within any of the King's dominions, after any such election, nomination, or presentation shall be signified unto them by the King's letters patent, shall refuse, and do not confirm, invest, and consecrate with all due circumstance as is aforesaid, every such person as shall be so elected, nominated or presented, and to them signified as is above mentioned, within twenty days next after the King's letters patent of such signification or presentation shall come to their hands; or else, if any of them, or any other person or persons admit, maintain, allow, obey, do, or execute any censures, excommunications, interdictions, inhibitions, or any other process or act, of what nature, name, or quality soever it be, to the contrary or let of due execution of this act, that then every prior or particular person of his convent, and every dean and particular person of the chapter, and every archbishop and bishop, and all other persons so offending and doing contrary to this act, or any part thereof, and their aiders, counsellors, and abettors, shall run into the dangers, pains and penalties of the estatute of the provision and præmunire made in the 25th year of the reign of King Edward III., and in the 16th year of King Richard II."

Upon this review of the Act, it appeared to him (Mr. Justice Erle) that the power of nominating to a vacant Bishopric was given to the King, and that the Archbishop had no authority to judge whether the King had properly exercised that power. After the nomination and election of a Bishop, the Archbishop was made liable to a penalty if he refused and did not consecrate within twenty days. And in this case it was not pretended that the Archbishop was empowered to sit in judgment upon the propriety of the King's nomination. The judgment of the King was here made supreme. The duty of consecration was enforced upon the Archbishop, whether he approved of the person presented or not. After the election of the person named in the letters missive had been effected by the Dean and Chapter, the King was to command the Archbishop to confirm the election. And this brought them to the point of contention between the parties in this case, namely, whether this command to "confirm" was used in the statute according to its usual meaning, or whether the King was to command the Archbishop to try the validity of the election, by not only inquiring into the regularity of the proceedings, but also the qualifications of the party elected; whether the previous proceedings, in fine, should be confirmed or annulled? According to the ordinary rule, the words in the statute should be construed in their ordinary sense, so as to give all its parts a uniform construction. It was pretended that the applicants in this case, by these proceedings, did not

militate against that part of the statute which declared that the nomination shall be good to all intents and purposes; but it was tradition in terms to say that an election shall be good and effect all intents, if at the same time it was sought by other proceedings to render it invalid. If the construction sought to be put upon the statute by the applicants were to be recognised, the statute would be rendered absurd and inconclusive. The statute declared that the person nominated by the King to a vacant Bishopric should, after election by the Dean and Chapter, or even in default of their election, after the expiration of twelve days, should be reputed and taken by the name of the elect of the vacant Bishopric, and it was incompetent, therefore, for a part of the Archbishop to disqualify him. On the oath of fealty having been taken, the command of confirmation issued. It was argued that the absolute refusal of the Archbishop to permit any delay of confirmation within the twenty days named in the letters patent from the King was inconsistent with the supposed duty of making and receiving applications, and deciding, therefore, whether he should confirm or refuse. If analogy were consulted, no reason could be suggested why the letters missive to the Dean and Chapter should be absolute as to confirmation, and why the letters patent to confirm and consecrate should be subject to be reviewed. The statute, then, if construed by the ordinary rules, did not appear to confide to the Archbishop any thing beyond his ministerial duty; nor would it appear that it gave to the applicant any right alleged. But it was contended that the "confirmation" of the election of a Bishop by a Metropolitan was used in a technical sense which was to be found in the canon law, which expressly required the Metropolitan to look into the validity of the election, and also the qualification of the person elected. It was contended that this power of the Metropolitan had been exercised from the earliest times of Christianity throughout the Christian world, and consequently in England down to the time of Henry VIII.; and that, therefore, the Legislature intended the "confirmation" should be used in the technical sense assigned to it by the learned counsel for the application. Many passages from writers on the canon law, and also from historians, had been quoted to show that prior to the time of Henry VIII., and from that time down to the present, parties were allowed at the citation upon confirmation to appear and state their objections, and that the Metropolitan had the power of deciding thereupon as to the fitness of the party elected. But that argument was, in his (Mr. Justice Erle's) judgment, untenable. In the first place, it was of opinion that, to construe the statute as if it were intended to admit the reception of evidence at confirmation would be dangerous, if not illegal; but, supposing evidence to be receivable, the assertion that any such usage at confirmation by the Archbishop prevailed in England down to the passing of the statute did not appear to him to be proved. The preamble of the statute 23d of Henry VIII., from which it was gathered that nomination and presentation by the King to the Pope was the course at that time of making bishops, declared that inconvenience had arisen from exactions and delays by the Pope, and, therefore, provision was made for the King to nominate and present a Bishop to the Archbishop, who was to consecrate him without causing any delay, or interference by the Pope. Of course, that statute provided that election and consecration by the Archbishop should be performed in the manner in which these ceremonies had been heretofore performed in these realms. The preamble asserted the former practice in England

cases of nomination and consecration, and a reference to history showed clearly that bishoprics were donatives of the King. That was the practice under the Saxon and some Norman kings. From the charter of King John to the reign of Edward III., Bishops were elected by the Dean and Chapter, and confirmed by the Archbishop. From the reign of Edward III. to the time of the statute, the Pope had superseded the Archbishop, except on a few occasions when the Papal See was powerless. Then, what foundation, he (Mr. Justice Erle), would ask, was there for the Court to assume that the usage of confirmation, on the ground pretended, prevailed down to the well-known period—to the time of the statute—when the evidence was specific only from King John to Edward III.? It was also necessary to ask, what foundation was there for supposing the statute referred to that part of the canon law relating to the confirmation of ecclesiastical elections, as had been maintained by the applicants? The doctrine of that law on this subject was shown to have been legitimate in the early days of Christianity, when the whole Christian community in general contested the elections of Bishops in large numbers; but it was extremely inapplicable in the case of a nomination by the King, whether direct, or circuitous by the medium of a Dean and Chapter. Foreign canon law had no binding effect on England, and the object of the statute which immediately preceded the statute in question was to limit the canon law in England. It recited that inasmuch as it was prejudicial to the King's prerogative, and repugnant to the laws and statutes of this realm, such parts only of the canon law should be used after the passing of that act as had been heretofore used in England, and were not contrariant to the laws and statutes of the realm or the King's prerogative right. It was pretended that Parliament intended to use the word "confirm," not in its original sense, but in a sense tending to limit the powers of the important statute now in question. But how could it be argued that the construction set up by the applicants was well founded, when the statute itself expressly declared that the election should be held to be good to all intents and purposes, which was, in substance, a confirmation of such election? It was obvious to any one of legal experience, that many words still prevailed in our law which were at variance with the fact which they purported to relate to, some being vestiges of rights that had ceased, and some relating to functions which in early ages were introduced into the law, and some from other sources. No reason was suggested why the form of words used by the apparitor at confirmation did not belong to that class. If it had been more than a mere form, the right of opposing would probably have been exercised; yet no one recorded instance had been produced of an opposer having exercised the rights now claimed by the applicants in any country or at any time. Although the industry of the learned counsel had been extreme, no restraint had been placed on the references to cases with regard to England or other countries, legal or historical; and yet all that had been shown as to any such right of opposing having been claimed before the present year was the case of Bishop Mountague, in the reign of Charles I., in which there had been no decision. Two other cases had also been cited, which, however, threw no light whatever on this question. From my Lord Coke to Mr. Justice Blackstone, no expression, no authority, had been adduced to show that such right as that set up by the applicants ever existed. Such absence of recognition of that alleged right by the old writers must be taken to operate most forcibly against the existence of any such right. Another point was made for the appli-

cants in answer to the construction commonly put upon the statute, viz., that the sole purpose of the Legislature was to put an end to the interference of the see of Rome with the English Church, and that the statute ought to be so construed as to limit its operation to that effect. But the intention was clearly expressed, both to prevent the interference of the Pope, and also to lay down in a substantial manner the functions of electing and consecrating Bishops of the Church, as severed from the Pope. The full operation of the statute not only destroys the influence, but declares the rights of the King, and sets clear boundaries against encroachments. The Legislature, warned by the history of Governments, have reason to provide against future contentions between the Crown and Ecclesiastical authorities. After giving my best attention (said his lordship in conclusion) to the arguments, my mind is brought clearly to the conclusion that the supposed right does not exist, and that the rule for a mandamus ought to be discharged.

MR. JUSTICE COLERIDGE (whose opening observations were very distinctly heard), said he was now bound to deliver his opinion upon the rule, which had been argued at the bar with such remarkable learning and ability, and he could not but express his regret that he was not upon to do so at so short a period after the discussion by the learned counsel as entirely precluded the possibility of deliberately and satisfactorily considering the arguments, or making such an examination of the question as its importance deserved. He regretted that the learned judge who presided over the Court (Lord Denman), as well as his learned brother, Erle, not merely from the legal conclusions to be drawn from the arguments adduced, but upon the practical disposal of the subject before them. But even if he had concurred with them in opinion, he should approach the subject with diffidence. The question before the Court was narrow and simple, but it had been argued upon grounds so wide and illustrated by inquiries so wide, that it required the most serious attention. These inquiries had extended into times of remote antiquity and so spread themselves over various branches of the law, that it was more easy for an advocate than a judge to speak with strong confidence on the subject. As to their disposal of the present rule, there was great consolation, namely, that if an error in judgment took place, the error would not be final. He was not insensible to the great public inconvenience which might result from the continued agitation of this question in the public mind, but he must own that, in his own opinion, the public inconvenience had been greatly exaggerated, and that inconvenience was not all on one side. With regard to the application itself, the matter at best, could be of little practical importance. On both sides it had been urged that the interests of the Church were at stake, and indeed, to some extent, so they were; but he trusted and believed that, as was usual in such matters, some natural exaggeration had been made on both sides, and that, when the fervour of the moment had subsided, it would be found that the Church had not been so dreadfully agitated as had been anticipated. With that feeling it was that he desired to rest his judgment on this narrow and simple ground, that his conviction was that the plaintiffs were entitled to a writ of mandamus calling upon the defendants to receive the testimony which they were prepared to offer, and to give thereupon. For the present, he would only say that he thought this was a question in which parties lawfully summoned by an inferior Court might appear therein, and who, having sufficient interest, had appeared.



to be heard, and had been refused. If that general statement were true, and he admitted that on its truth depended the result of the whole argument, he thought it could not be doubted that it was within the province of this Court, by mandamus, to compel an inferior Court to admit the parties to appear and make their allegations. Nor could it be an answer, that such inferior Court was an ecclesiastical one, or the matter in discussion of ecclesiastical cognizance. The Ecclesiastical Courts, as such, were not withdrawn from the general authority or controul which this Court exercised, by mandamus or prohibition, over all inferior Courts. This Court could not, indeed, direct their course of proceedings, or prescribe their judgment upon them, nor review them by way of appeal afterwards. They were the judges of their own practice. They were to affirm their judgment according to their own law. On that alone was the decision really to be made. But still this Court could compel any ecclesiastical judge, as it could any other inferior judge, to do his duty, just as it could restrain him when it appeared that he was about to exceed his jurisdiction. That stood on the clearest principles. Indeed, he believed it hardly necessary to have said the few words which he had on this subject, but for the misunderstanding which appeared to exist on this point with reference to the case of the King v. the Churchwardens of St. Peter's, Thetford, which was to be found in the fifth vol. Term Reports. Its importance had been exceedingly magnified, for on referring to the report he was surprised to find that the whole statement of the arguments occupied only six lines, and the ultimate judgment only two. The Court there refused a mandamus to compel the making of a rate for a parish, as the question was properly subject to ecclesiastical jurisdiction. He (Mr. Justice Coleridge), for one, did not question, upon consideration, the propriety of that decision, though perhaps he might wish that the judgment had been recorded at greater length. The question of church repair and church rates was an ecclesiastical one, and to the Ecclesiastical court the applicant was bound to go in the first instance, and there was no reason for supposing at that time that the Court would shut its doors against him. There was no alleged denial of justice on the part of the Ecclesiastical Court, and therefore no ground for this Court's interference. But the question at present before the Court was of a very different nature; the Court had at once refused to listen to the applicants. With respect to the other case quoted by counsel, namely, the King v. the Justices of Carnarvon, Mr. Justice Holroyd said that if it had appeared that the magistrates at sessions had heard one side, and had altogether refused to hear the other, he thought it the same as if the case had not been heard at all, and he should, therefore, issue a mandamus. It was said by the learned counsel who had appeared against the applicants, that if this Court could interfere in this matter, their proper remedy would be by suing out a writ of appeal; but there had been no decision upon the merits of the case in the Court below, and there could, consequently, be no appeal. But before the rule could arise the party must be admitted to state his case. It had been alleged on this part of the case that the applicants had no interest which entitled them to appear. On many grounds it appeared to him that they had sufficient interest to be allowed to appear. If the whole proceeding on which the inferior Court was to be engaged were a mere shadow and form—if the citation were, as alleged, but a mockery and a sham—then interest there would be none, or at all events, these applicants had no business there. But on the other hand, the citations themselves seemed to give an interest, and still

more to two of them, who held incumbencies and who were, no doubt, interested in the future Bishop. They had clearly the same right of city or borough, as in the case of a "pointment of a mayor. It was not worth while founded on the Church Discipline Act. They seriously urged, and he would pass, therefore, later for consideration—the construction of the statute of Henry VIII. They were not to decide according to what Henry VIII. intended or wished, but according to the meaning of what it appeared the Legislature wished. No evidence on the former could be obtained, he would not be received; but it was not "*quid voluit Parliamentum*," that the Court had to consider. The Court commanded and required the Archbishop to confirm. On the one side, it was contended that this was a purely ministerial, and that the confirmation was a solemn, formal, and judicial act, which, from the Church, it was the duty of the Metropolitan to confirm. It was obvious that those who maintained upon themselves a large burden of affirmative proof, what the word confirmation meant in this 5th statute, to show what it meant in the ordinary acceptation, what light it had been regarded from the earliest times, the plain common sense of mankind, the proper true meaning of the word, as given in the Act, that confirmation was a process of a certain nature, to be petitionary, and having certain consequences. The Court would be calculated to mislead and deceive by giving any definite explanation of what it meant. He intended that he was to understand it in the manner at all times previously explained and recognised. He might use the word incorrectly in that instance which it wished to attach to it in another passage. It was necessary, therefore, to see if the case were so, the meaning of the word in other portions of the statute. He would give no explanation given that could show anything to the term, except the ordinary one, in the statute. Evidence might be drawn from the provisions about the period, to show any particular meaning of the term. Lastly, it was right to examine into what had been done in succeeding times to obey this statute. The question as to the meaning of the statute ranked itself under four heads of inquiry, and the second and fourth might be considered inquiries into the meaning of the word. The second was more properly one of construction, and the third and fourth might be considered inquiries into the meaning of the word. He would follow the applicants through all the evidence on this branch of the case. The time allowed for the case was factorily, even in those few authorities to which he had referred. In his opinion they had placed the case in a position, raised a firm conviction that the conclusion was one, and he thought that in none had they

disentitled them to the right they sought. It was enough for him to assert, however, that by the practice of this Court they had uniformly, on the discretion of the judges, regulated their decisions in such matters as to allow the right of mandamus in all cases where there was not an absolute certainty as to the practice, or a clear and unanimous opinion in the minds of the Court as to the law. If the answer put in was considered satisfactory, it was thought right to let a jury so decide it, and if a conclusion in a matter of law were to be arrived at, or if a difficulty requiring a solemn decision existed, then it was thought right to let the question be raised on the record. And since the passing of the Act regulating their decisions by Courts of Error, he thought this course of proceeding had acquired increased force. There were two considerations to be regarded before he arrived at the examination of the historical evidence produced in this case. If that evidence were now before a jury, and if a judge were summing up, he apprehended that the judge would tell them that the evidence was to be considered with a reasonable allowance for the circumstances under which it was produced, and the lengthened period that had elapsed since it originated. To expect that a title traced down for centuries through a period including many public struggles and troubles, and exposed to be acted upon by many foreign claims—to expect that such a title should be made out with an unbroken, consistent, and uniform clearness—would be to expect what was impossible to accomplish, and would therefore be unreasonable to ask for. Independent of this effect of these causes on the evidence, they had the effect on the title itself. What was said by the Court in considering an ancient statute of the University of Cambridge, in the case of the Queen v. Archbold, might be easily applied here, namely, that it almost followed, from the imperfections and irregularities of human nature, that a uniform course of proceeding should not be adhered to during a long period; that little advances would be made at one time, and a little taken away at another; and that when, in the lapse of years, the evidence was lost which would have explained these irregularities, they were easily made cavils with regard to the whole matter. So also with regard to the title. If the same mode of canvassing a modern grant, without making allowance for the lapse of time, were adhered to in ancient titles, it was clear that no old title could be supported. It was obvious that this argument applied with tenfold force in the present case. He did not, however, put forward the argument as one strictly conclusive. If they refused the rule, they then indeed refused all further inquiry. They acted as if they considered the subject as worthless, or the evidence as insufficient, and they precluded all further inquiry into the matter. But by granting the rule, they merely say that enough had been shown to justify further inquiry, and a more solemn decision. Making due allowance for all difficulties, they should remember the troubles that existed at remote periods; that the facts were of a kind that did not come frequently before them, and were connected with a law and a literature to which they were but seldom called upon to direct attention. Under such circumstances, it was the rule—the constitutional rule—and, as he understood it, the rule of that Court—to decide so that error may end in final justice. It was with these considerations that he approached the evidence offered in the case. The evidence on behalf of the applicants was brought back even to the apostolic ages; but he was content to consider the proofs adduced from the General Councils as sufficiently remote. At the time when Christendom was united as one body, it was considered to represent the whole



inhabited earth, and when important heresies sprung up, councils were assembled to consider upon them. On the occasions of four great heresies, what Hooker called the four most famous Councils of the Church were called. At two of them, the Councils of Nice and Chalcedon, they had the question of episcopal confirmation treated of in terms. [The learned lord here read the passage which had been relied upon by counsel from these canons.] They might limit these words as they pleased—they might assume, if they wished, that the canons had reference to a period when the election of Bishops was on a more popular form than it had been in England since the Conquest. Still they had the undisputed fact, that in those very early ages the Metropolitan did interfere, and that his intervention was necessary to complete the election of his suffragan Bishops. Could any thing be more reasonable than such interference, when the Bishop elect was to rule over a diocese within his supervision? He felt compelled to pass over a large body of evidence of this kind, some from General, and some from National Councils. These Councils prescribe the rights of what was called the general canon law. Now, as he understood, it was not so much contended that under this law the point was not satisfactorily made out, as that there was no ground for admitting this law as any part of the common law of England. When they spoke of England before the Reformation, he confessed that he hardly understood this argument. When they spoke of England then, they spoke of a Roman Catholic country. They found allusion to the Holy Father the Pope, as he was called, even in statutes restraining his usurpation. The decrees of canons and the opinions of learned men of that period would be received in other countries at this day, from which appeals were made to Rome; and there could be no question that in this country they were binding before the Reformation—subject, no doubt, to the controul of the statute law. But as a general rule, our ecclesiastical courts governed themselves by the canon law, which was a law of that Catholic church of which this country was a part. In Lyndwood and John de Athon we have the expositors of our national canon law. The provision in the 19th of Henry VIII., towards the end, refers to the preamble of the act, which does not speak of the canon law, but of the provincial constitutions which had been made in this country, among which is the constitution of Othobon, referred to in Gibson. It is clear that what had been decreed by Councils had been adopted by the canon law, and it is necessary to show that that law had not been adopted in this country. By that law, confirmation was a judicial proceeding, in which the process of the election and the person of the elected, his life, morals, and learning, &c., were examined, and the result was not unfrequently unfavourable to the person elected. I do not remember an instance which went to show that the *persona electi* meant merely the identity of the party. The practice of provisions and the appellate jurisdiction of Rome interfered with the power of the Metropolitan; but after making all deductions on this account, it is proved, I think, that the power of confirmation was in the Metropolitan. In Wharton's "*Anglia Sacra*," which is not a modern work, but a collection of ancient and cotemporary writings, there are numerous instances of the exercise of this power from the year 1277, in the reign of Edward I., down to the year 1416, the 3d of Henry V. [Here the learned judge referred to several cases of the kind which had been cited by Mr. Badeley in the argument.] Every case of papal consecration is not evidence against the power of the Metropolitan, and if the Pope had been content with his power as patriarch, we might have retained his appellate jurisdiction, which rightly belonged to him.

versal head of the whole Christian church. [The learned judge then proceeded to quote several passages to show the precise jurisdiction of the Metropolitan before the passing of statute Henry VIII., and having referred to Rymer, p. 176, (2d part), as an authority in the view he took, went on to review the various acts passed by succeeding Kings up to the time of Henry VIII. in their restrictive influence on the power of the Pope to interfere with the nomination of Bishops in England. At the time of the election of Bishop Wakering there was a schism in the Roman Church, and his confirmation could not be duly performed. When the council of Constance put an end to this schism, Martin V. ratified the consecration of Wakering, and with Martin the state of doubt which existed as to his authority terminated. In succeeding years, the Popes, at various times, claimed the right of exercising their authority in the appointment of Bishops. They issued bulls, which were necessary, not only for the exercise of the power they claimed, but for the purpose of extracting money from the clergy. Before passing from this point, he must say that these instances of the Pope's interference must not be taken as evidence against the right of the Metropolitan. The latter still had the right to adjudicate. If he decided the appeal against any Bishop in favour of the Bishop elect, his decision would confirm that of the inferior jurisdiction. When the Pope took upon himself to confer the see on a creature of his own, it was a matter of usurpation, and could not be cited in an argument like the present, to show the authority he really exercised. He should now close this inquiry, which he was sensible had proceeded to a wearisome length, though not so much so, he feared, as to render his view of the question so conclusive to others as to himself.

The statute of Henry VIII. came next to be considered. Up to this time they had to deal with the confirmation by the Metropolitan as a real transaction, but it ceased to be regarded in this light as soon as the statute was passed, and the whole question at issue was the force and effect which the proceeding had as conducted under the change that took place. He adduced, from a selection of cases published in a pamphlet, several instances to show that the power of refusal had been exercised by Archbishops; also the case of a Bishop who had been rejected, but who, on proceeding with an appeal to Rome, so satisfied the Pope of his qualifications, that he confirmed him himself on the spot. In the third year of Henry V., when three parties were contending for the Popedom, an act of parliament was passed empowering the Metropolitan to confirm without delay, after the receipt of the King's writ for that purpose. That was only a temporary measure, and was in force only during the vacancy in the apostolic see. When Martin V. was elected, he ratified the elections and confirmations that had taken place under that Act, which was repealed on his election to the Popedom. Had the Pope been contented with the power he then enjoyed, he might have continued to possess it; but, not content with the power he had as patriarch, he claimed an appellate jurisdiction, and beyond this, on some occasions, he rejected the Bishop elect, in order to confer the see on a nominee of his own. This was a usurpation, arising out of his claim to be a universal Bishop. He (Mr. Justice Coleridge) had a strong conviction that when Henry VIII. came to pass that famous statute, which had been so much referred to during this argument, the Bishops had to deal with confirmation and consecration as real judicial transactions, confided to them from the earliest time. He had now to consider how confirmation had been dealt with by that statute. But in order that his observations might be more

intelligible, he would preface them by a general view which be the policy of that Act; for he considered himself bound, as a lawyer, to take that interpretation of the Act which the state of things at the time it was passed would warrant. He believed the Act was passed, for the purpose of placing on a clear foundation the royal power of nomination of Bishops; and secondly, to prevent all interference on the part of Rome, and to secure the prompt obedience of the Metropolitans to the royal command. For effecting the first object it was not necessary to alter the ancient mode of proceeding by election. If a lawyer and canonist had been consulted in framing the Act, they would have been aware that many inconveniences would have resulted from an alteration of the mode of electing and confirming. If divines had been consulted, they would naturally be slow to sever one link unnecessarily from the venerable chain which bound our Church in communion with the great Christian commonwealth. Election was, therefore, to be preserved, and the only change made, was the introduction of a new instrument, the letter missive. The statute was so worded that no question could be raised—nothing was left to cavil or exception. There was no notion of disturbing the ancient relations of the Church. The King was not to be deceived in his appointment, and he did not arrogate to himself the ritual powers of dispensation. Not a word was admitted to detract from the powers of the Metropolitan. Those powers were rather increased by relieving the Metropolitan entirely from all Papal review, and every sort of Popish interference. If these were all the provisions of the statute, there would be no difficulty in the view which Mr. Justice took of it. But something remained; there were two parties concerned in the making of a Bishop after the presentation of the Crown, namely, the electors and the Metropolitan. Both might thwart the nomination, the former by refusing to elect, and the latter by objecting to consecrate. Either might be punished for disobedience, but they could not be compelled to elect. It would not be decorous in the Crown to confer a power that would be contrary to ancient usage; besides, the Metropolitan's power and responsibility remained untouched in the matter of consecration. And although he might be punished for a wilful and groundless refusal to consecrate, yet he could not be compelled to act, and it was a remarkable circumstance that there was no provision made for procuring consecration by any other means, if the Metropolitan refused to consecrate. Let us now see whether the statute did not agree with that. The first and second sections provided conditionally for the consecration of a priest, without any regard to Papal bulls. The grievances submitted by the Court of Rome were represented as mischievous, and the spirit and language of the enactment were now studiously hostile. The Pope, who in the recited statutes of the two years before was styled "our Father," was now called "the Bishop of Rome," and the "Court of Rome" was changed into the "See of Rome." The third section of the Act took away the absolute power from the Court of Rome to refuse presentations, and forbade the procuring of bulls or palls from Rome, and all payments of any kind to the Pope. Thus far every word in the Act was directed against Rome. The fourth section began the particular provisions. First came a license under the great seal, as of old times had been accustomed, to proceed to an election. Here the word election was used as an old term. Then was added the new letter missive, containing the name of the person whom the electoral body was to choose, and the command, "We do hereby command you, that you do, with all speed and celerity, and in due form, to elect the

son named, and none other. No qualification was mentioned. He (the learned judge) understood some of the learned counsel to make a difficulty of canonical impediments by giving to the Crown, as head of the Church, a dispensing power, such as the Pope formerly possessed. He (Mr. Justice Coleridge) could only say that these were strong arguments to be advanced, and against which, as a member of the English Catholic Church, he most strongly must protest. Whether the letter missive could be taken in a sense that would reduce the election to a mere form, so as to make the act of the electors merely ministerial, it was not necessary now to decide, nor would he take on him to affirm; he would rather think that the silence of the Act as to qualifications was to be considered as leaving that matter to the consideration of the proper ecclesiastical authority. The fifth section enacted that the Archbishop should, with all speed and celerity, invest and consecrate the patentee, and give to him pall, and all other ceremonies and things requisite for the same, without suing or claiming hereafter any bulls from the See of Rome. This was not a command simply to consecrate with all speed and celerity, so as not to allow time for the inhibitions mentioned afterwards in the statute. The statute then returned to the electors, and said their election should stand good and be effectual to all intents and purposes, and that the person elected should, after certification, be named as the Lord Bishop elect of the See. These were words on which great reliance was not unreasonably placed, and it would be uncandid in him to deny that he had felt that weight. But those words were inserted with a two-fold view; first, to meet the requirements of the "processum electionis," that there should not be any imputation against the proceeding of the electors, and that, whether the party elected was canonically worthy or not, their act might stand good, and their election should have its virtue, without the aid of Popish interference. The election was then to be signified to the King under the seal of the Dean and Chapter, and the Crown was to signify the election to the Archbishop, requiring him to confirm. The words "speed and celerity" were here omitted, but he was required to invest and consecrate the Bishop elect, and give and use to him pall, and all other things requisite for the same, without suing, procuring, or obtaining any bulls, &c., from the said See of Rome. No description was given of any one of those things which the Archbishop was to do. If he were to ask?—"How am I to invest? How am I to consecrate?" The answer would be—"As you did before the passing of this Act." If he asked—"What will be the legal effects of that investiture and consecration?" The only answer that could be given would be—"The same as before the passing of this Act." The answer would not be—"You were the Judge before—you are the Minister now—you were bound to examine into the question of fitness before—you cannot do so now; before you might reject a person deemed unfit—you cannot do so now." If such an answer were given, might not the inquirer ask—"On what words of the statute does this change rest?" And would any implication be strong enough to satisfy him, as a full response to his demand, that the ceremony of confirmation, which was preceded by the same religious rites and solemnities as before the passing of the statute, when it was no empty form but all substance, was nothing now but a shadowy and useless ceremony? It had been argued that it might be physically impossible, if this inquiry were carried out, for the Archbishop to proceed to consecration within the space of twenty days prescribed in the statute; and that, consequently, he would become liable to the penalties of a *præmunire*; but he

fessed he did not place much weight on the force of that argument. inquiry was not new—the possibility of rejection was not new. were said there was to be no inquiry, in what words of the statute founded such assertion? Could the Archbishop think any explanation of the statute strong enough to justify him in believing he was expected to proceed in this uncalculated confirmation, and what was worse, with the same religious rites, and in the same house of God to assume that all this solemn investigation and ceremony was an empty matter of form? But if the words referring to the Church of were to override all the other words of the statute, the meaning of the Act was plain enough, and while the great defect was removed from the provisions of the Act, the acknowledged object of it may be preserved and the Crown might make a Bishop without reference to age, learning, faith, morals, or doctrine. But did those constituting the elective give such a right that the right alone should be perfect without reference to him on whom the Crown cast the most responsible duty of consecration? He thought the argument failed in showing that was the case. Was there any man, he asked, of sense or conscientiousness who could read the order to the Archbishop, as it was written now, it was written in the time of Edward VI., and who, referring to the fact that he proceeded according to the solemn rites which long existed in the country, could say that the Archbishop could perform these rites and exercise these functions while doing what he considered to be a mere form? The learned Judge then went on to read the 7th section of the Act, relating to the time in which these ordinances should be obeyed. A short time was given, and for this it was argued that the ceremony was to be performed in the most positive manner; but the argument related to non-feasance, and would bring parties within the penalties of the Act if they honestly delayed obedience to what it required. But in truth the argument would go for nothing, if the Archbishop were engaged in a judicial act, for then, if he honestly delayed the completion of it, that he did so honestly would, as he (the learned Judge) conceived, be a complete defence for him. He had no doubt, if the Archbishop honestly engaged in proceeding with the confirmation, and there were an unnecessary delay on his part, and yet that he were prevented completing it within the twenty days by the necessary length of the inquiry, that he would then have a perfect answer to an indictment. It was a very different case from wilfully and capriciously abusing the trust reposed in him, and improperly delaying the time. He had now imperfectly and briefly examined this question. In the course of the arguments the expression “the Magna Charta of Tyranny” had been used with reference to the statute, an allusion which would be well understood. According to his view the term appeared to be an exaggeration. The statute no doubt was excessive in regard to the measure of the punishment which it awarded: it might well be excused when they remembered the punishments which characterized that age. If the statute had been rightly construed by Crown lawyers, then in his opinion the term was perfectly just; because it cut off the vexatious interference of Rome with a somewhat rough hand, but because it gave to freemen and Christians still the garb of freemen, and to use the solemn ordinances of the Christian ritual, whilst at the same time it imposed an intolerable yoke upon the conscience, because it commanded the highest officers of the Church to wear the form of judges with the semblance of an open court—demanded them to invite opposition, to cite opposers, to warn the

upon the Holy Gospel, to pronounce a solemn judgment in the name of the Saviour, and yet declared to them that it was all a shadow and a sham, because it bound them solemnly to invoke the influence of the Holy Spirit, and in the most awful language to confer this inviolable gift upon, it might be, a mocking infidel, and to administer to him that right which on the morrow he might abuse; and yet it stripped them of the Queen's protection, forfeited their lands, their goods and chattels, and thrust their bodies into prison, if they presumed to perform that ceremony. No infidel could contrive a more blasphemous thing than such a contrivance would be. His consolation was, and it was a great one, that he could not and did not so interpret the statute. He did not believe, nor should he, until he were told so by the highest judicial authority in the land, that we could have such a law. He did not believe that in any age, or under any monarch, the Lords and Commons of England would have been found to have passed such a law. He could not think that for so many centuries holy men would have been found content to lay upon their consciences so many burdens. He did not admit that Henry VIII. would have given his consent to such a law, for, tyrant though he was, he still thought himself a churchman in the highest sense of the word, and gloried personally in the title of "Defender of the Faith." It had been argued by the Crown that the proceedings at the confirmation were purely formal, and need not be adhered to. Looking at the traces which might be found in the books that had been cited, it seemed clear that the form at present in use was the same as had obtained previous to the Reformation, and if so it was probably the form which had obtained from the earliest ages, and if thus ancient, what weight did it not add to its present force? It was also urged in the course of the arguments, that though the act of confirmation might be of substance, the form was immaterial; that it was merely the mode which the Archbishop adopted to satisfy his own conscience. Originally, perhaps, the confirmation was a formal proceeding, but it seemed early to have grown into certain established forms. It must be remembered that the Archbishop was not the only person concerned. The Bishop elect, though not originally interested in the matter, and not supposed to have any desire to fill the great office to which he was called, as soon as he was elected by the canon law, and by the agreement of all parties, came to have a direct and certain interest. He had from that moment not only a real and substantial interest, but clearly an interest which the canon law took notice of; because, unless the Bishop elect had been a party to the proceedings below, he could not have become a party appellant in the court above. Justice required, then, that such a proceeding as this, whether in fairness to the Bishop elect, or to the Archbishop, or to the Church at large, should be open and governed by certain definite forms; and all lawyers must admit the truth of the position, that it was by form in the courts of law that rights became substantially protected. If, then, this proceeding for 300 years had a particular shape—that shape judicial, carried on in open court, and parties summoned to make their appearance in accordance with that form—he conceived that the Archbishop was bound now to act in compliance with the custom which had so long obtained. It had been urged that there was a total want of precedents since the Reformation, of the rejection of any candidate who had been duly elected, and he would rather admit that, than stand upon any of the cases which had been adduced; for it did not appear to him that any of the cases referred to had been made out in that clear way which should



entitle them to the serious consideration of the court. For all these reasons, though he felt that he had very imperfectly examined the subject, it seemed to him that on the whole the rule ought to be made absolute.

Mr. JUSTICE PATTESON said, he did not propose to enter into a full examination of the various passages which had been cited from the works of writers on the canon law, as well of England as of foreign countries, or the canons of General Councils held at different times in the Christian Church, and from various other authors, upon the subject of the confirmation of Bishops, which were very properly brought before the Court in the course of the argument. They appeared to him to have established satisfactorily, that in all Christian countries, in England as well as in others, wherever a Bishop was elected, from the earliest time until the passing of the statute 25th Henry VIII., whether by the people, or the clergy and the people, by the clergy as a body without the laity, or by the superiors of convents, that that election required to be afterwards confirmed in order to perfect it, of which confirmation due information was to be given. It appeared also that such confirmation was also the act of some spiritual superior, whose act in that respect was judicial and not merely ministerial, and one which involved an inquiry into the regularity and sufficiency of the election. He had to inquire into the qualification of the electors as well as the identity of the person elected. So that as that act came after the election by way of review, it could not properly be said to have constituted a part of the election itself. Such confirmation was most obviously requisite in the case of a popular election, but it was also very important when the election was confined to a smaller body. Without trial, great danger might have been incurred by the introduction of an unfit person into the vacant office of Bishop, the danger of which was obvious. It was necessary, then, that some should be instituted by which such mischief might be prevented, and when the act of confirmation was about to be performed, all persons were cited generally, as well as those who had any particular interest, especially to come forward and state their objections, if they had any, to the election. Such citation appeared to have been early used in this country from an early period, though the precise date of its introduction did not appear; at all events, it certainly appeared to have been used for a very long period before the passing of the 25th of Henry VIII., and to have continued to be used down to the present time. Whether the custom was not introduced into this country from the canon law, or how far the canon law, as to confirmation, was adopted into this country, he did not think it necessary to inquire. It was sufficient for the purpose of arriving at a true construction of the statute 25 Henry VIII., cap. 8, upon which this case depended, that to-day, and up to the time of passing of this Act, the election of a Bishop in this country was required to be confirmed by a spiritual superior, whether the Pope or Metropolitan, and to that office was annexed the judicial act of first citing all persons to come forward who had objections to the confirmation.

Several instances of the Archbishop of Canterbury having refused to confirm the elections of Bishops in this country, and rejecting the persons elected, were cited in Wharton's "*Anglia Sacra*," in which, on account of objections to the qualification of the elected, the elections were annulled by the authority of the Metropolitan. Those, however, were all previous to the 25th Henry VIII., and the elections of those times were real and free elections under a *congé d'élire*, granted by the Crown, which, however, did not state who were to be elected. The Crown, it was

said, was to recommend by a letter some person to be elected at that time, and that influenced the election ; but there was no power in the Crown to compel the election of a particular person. Therefore, the annulling of any such election by the Archbishop or the Pope, when the act of confirmation came to be performed, could not in any way trench upon the prerogative of the Crown. The authorities cited from the Year Book, and from “*Evans v. Ascuthe*,” in Palmer, show that confirmation was a necessary act, and that confirmation might be refused and the election made void. It is established by the authorities, that when the 25th of Henry VIII. was passed, confirmation was a judicial act ; let us, then, proceed to consider the provisions of that statute. The 23d of Henry VIII. provided, if any person elected to any see should be delayed or should be denied confirmation by the Bishop of Rome, any such person was to be consecrated in England by the Archbishop of the province. But nothing is there said of the manner and form of carrying it into effect, nor of the election of Bishops. Then follows the 25th of Henry VIII. chap. 20, which, in the 3d section, says,—“*Forasmuch as in the said act it is not plainly and certainly expressed in what manner and fashion Archbishops and Bishops shall be elected, presented, invested, and consecrated, &c.; and it then goes on, in the fourth section, to enact “that the King may grant his license, under the great seal, to the dean and chapter, to proceed to the election of a Bishop, with a letter missive containing the name of the person whom they shall elect and choose ; and that the dean and chapter shall choose the person so named, ‘and none other.’”* Here is an entirely new matter, for though there was a letter missive before by recommendation, it was a mere request, and the chapter could not be compelled to obey. The words are added, that they shall elect the person so named, and none other. The effect of this is to destroy the freedom of election altogether. The repealed statute of Edward VI. described these elections by “*in very deed no elections, but only by a writ of congé d’élire have colours, shadows, or pretences of elections, serving nevertheless to no purpose, and seeming derogatory and prejudicial to the King’s prerogative royal, &c.*” He could not agree with the latter part of the section, “*seeming also prejudicial to the King’s prerogative royal, to whom appertaineth the collation and gift of all archbishoprics and bishoprics, and suffragan Bishops, within his Highness’s said realms of England and Ireland, Wales and other his dominions and marches, &c.*”—for it is plain that previous to and up to the time of the statute of the 25th Henry VIII., the collation and gifts of bishoprics and archbishoprics did not appertain to the Crown otherwise than as patron, and that the appointment was not in the Crown till otherwise provided for by statute in this country.

The next step after the election was that which was thus described in section 5 of the statute :—

“*That whensoever any such presentment or nomination shall be made by the King’s Highness, by virtue and authority of this Act, then every Archbishop and Bishop to whose hands any such presentment and nomination shall be directed, shall, with all speed and celerity, invest and consecrate the person nominated to the office and dignity that such person shall be so presented unto, and give and use to him pall and all other benedictions, ceremonies and things requisite for the same, without suing, procuring, or obtaining hereafter any bulls or other things at the See of Rome for any such office or dignity in any behalf.*” [See page 72.]

The Archbishop is then required to confirm this election, for the section went on thus :—



"The King's Highness shall signify the said election, if it be to the diocesan Bishop, to the Archbishop and Metropolitan of the province where the see requiring and recommending such Archbishop to which such signification shall be made, to confirm the said election, and to invest and consecrate the person so elected in the dignity and office he is elected unto, and to give and use to him all such benedictions, ceremonies, and other things requisite for the same, without suing or procuring bulls from Rome, &c."

The Archbishop was required to confirm, but he was not required to confirm without inquiring, or without observing any of the ancient and accustomed forms. The statute was silent as to them. If the statute had provided that the election should be by *congé d'élire*, and had introduced the new matter of the letter missive, there could not be a doubt that the election would have been free, and then the consecration and confirmation would have been as in the olden time. It was most important to consider what was the effect of this letter missive, not only on the election, but on the confirmation and consecration. It was admitted that the provisions of the statute did make the election a matter of mere form. But did they also make the confirmation a matter of mere form? It was said that they did so, not so much by the words of the statute in speaking of the confirmation itself, but by the words of the statute in declaring that "If the said dean and chapter shall receive license and letters missive to them directed, within the said twelve months, to elect and choose the said person mentioned in the said letters missive, according to the request of the king's highness, thereof to be made by the said letters missive in that behalf, then the election shall stand good and effectual to all intents." He was by no means sure that such was the meaning of these words. They might merely mean that the election should be as good as it would have been when it was a free election, though it had not been confirmed. But even if it meant more, the statute did not enable the Crown to perfect the election without confirmation, though in some sense it had bound the Archbishop not to make confirmation inoperative, though he might still do so, if he thought fit to incur the penalty of a *præmunire*. It was, however, a better construction that the Legislature intended that the ultimate perfecting of the election should depend on the election, though in the mean time the election should be good to all intents. Where the Crown nominated the Bishop, in the absence of election the statute showed that the Legislature thought confirmation unnecessary. The fact that confirmation was not there mentioned was not an oversight; the 2d Eliz., c. 4 (the Irish statute), which abolished elections, did not make any mention of confirmation from the beginning to the end of it. Hence arose the other argument, by which it was contended that as the Legislature thought confirmation unnecessary when the Crown directly appointed by letters patent, it never could have intended to be absolutely necessary where the Crown appointed indirectly by means of a *congé d'élire* to the dean and chapter; that therefore confirmation must be taken to be a mere ministerial act, and a matter of mere form; that the form of the confirmation was preserved because the substance of election had been preserved; but that neither of them was intended to be real or substantial. It was difficult to see why confirmation was not necessary where the Crown had appointed directly; it was often in vain to conjecture the reasons of the Legislature. It was impossible to account for all the provisions of this statute. He saw nothing that imported confirmation and consecration to be matters of mere form; neither one of them was so treated, and both were spoken of in the same sentence and in the same kind of language. That

believe that the Legislature intended that the solemn act of consecration was to be a mere form and shadow. And yet to say that confirmation was to be so was to say the same of consecration, for nearly the same words were used, and the same interpretation must be put upon both. There was not even one sentence which said that if the Crown should happen to appoint by letters patent, the Archbishop must not inform himself of the character and morals and bearing of the person elected; and he could not believe that if a real impediment existed to that person and came to the knowledge of the Archbishop, that the latter was to be prevented from acting on it. If the Crown issued letters patent, the Crown was bound to confirm, without seeking any bulls from the Pope of Rome. Confirmation and consecration seemed to be such as would formerly have required to be sanctioned by bulls from the Pope, and would therefore be directed by those bulls, but it could not be doubted that such bulls would direct the Archbishop to make a judicial inquiry. He could not think that the Legislature meant to carry the fact that the election was mere form and shadow into the confirmation and consecration. He was not justified in attributing to the Legislature the enactment of provisions that would make everything mere forms, shadows, and pretences, beyond those which were so expressly described. He was bound to construe the words of the statute in their known and received meaning, if no contradiction or absurdity was involved in his doing so; but he was especially bound to give them such a construction, when by it the more reasonable interpretation was to be put upon the Act, though he must confess that he could not sufficiently explain why one construction was necessarily to be put upon one of these provisions and not upon the other. It seemed to him that the Archbishop was to confirm as in the old time, and that was after a judicial inquiry. But it was said that the 7th section prevented this, and subjected the Archbishop to a præmunire if he did so. The learned Judge read this section. [see p. 73.] He much doubted whether the penalty in that section applied to any thing except the offence of suing out proceedings in the court of Rome, which it was the especial object of the statute to prevent. All the words used were indicative of process not used in our law. But it was not necessary to determine that point. The terms applied to some extrinsic authority, whatever that might be, and not to the exercise of the jurisdiction of the Dean and Chapter, which they lawfully had, nor to the exercise of any judicial act by the Archbishop with respect to confirmation. With respect to the other clauses of the section, the words seemed to import that the penalty would be incurred if the act required was not done within twenty days, and those words were brought to bear on the 5th clause, as it was said that no judicial inquiry of this sort could be brought to an end within twenty days. He did not think that the words here used necessarily led to any such conclusion. In the 5th section nothing was said as to time. The requirement to confirm was not to be obeyed with all speed and celerity, as it was in the case of the appointment by letters patent. And where the words limiting the time to twenty days were introduced, the true meaning was, if the refusal to confirm was made without lawful cause. All statutes imposing penalties must be construed with this limitation. Whether the act was judicial or ministerial that construction must be the same. What would amount to a justificatory cause or excuse in the case of the Dean and Chapter it was not necessary for him to inquire, but in the case of the Archbishop the pendency of a judicial inquiry would be just as sufficient as the

incapacity from illness of the Archbishop or of the Bishop elect. If this was really a judicial act, nothing would expose the Archbishop to a penalty if he proceeded bona fide in regard to that act. It was said that such a construction would be a violation of the prerogatives of the Crown. He did not think so, though he admitted that by the letter missive the power of the Crown was materially altered. Neither did he think that such a construction gave the Archbishop what was called a veto on the appointment. It only gave him a judicial power as to the act of confirmation. It was said that there was no instance of a refusal to confirm since the statute, and that circumstance was certainly one of considerable weight. If there had been any proceeding promptly taken on it, he should have thought that contemporaneous exposition would have been strong to show that the acts required were merely ministerial. But though there were refusals to confirm, it did appear that witnesses were examined on some of these confirmations. In modern times there was no such instance. But supposing the act to be, what he supposed it to be, a judicial act, mere disuse would not destroy a right, as was conceded in the great case of *Ashford v. Thornton*. The opinions of various writers had been collected into a pamphlet, entitled, "The Royalty of the Crown in Episcopal Promotions," and had been often referred to by Dr. Addams, and other learned counsel, in the course of the arguments. So far as the opinions there cited were applicable, they went to confirm the general notion that the Archbishop was bound to confirm. The extracts from Brett on Church Government, and Mason's *Vindiciæ Anglicanæ* suggested the same opinion. It certainly was difficult to understand why the proceedings had not been altered in form if it was required that they should not be of a judicial nature, nor why they had so long been allowed to continue in the same state as before the Reformation. For every one who read in Gibson's Codex the form of proceeding, must see that every step in it had the appearance of a strictly judicial, and not ministerial proceeding. It was difficult to believe that so solemn a mockery would have been gone through by so many persons, and for so long a period, without any assignable motive. He therefore did not think that the confirmation was altered by the statute of Henry VIII., but remained as before, and he believed that the want of exercise of a refusal to confirm, was not on account of want of power, but want of reason for the use of it. In the cases of Drs. Rundle and Clark, the direct question had been avoided. But it was said that the proceeding could not be judicial, for the Archbishop acted by his Vicar-general, whose jurisdiction was not in general contentious. He did not agree that that was at all of importance. It would not generally be contentious, but it did not follow that if, in a matter not commonly contentious, contentions did arise, the Archbishop would be deprived of his jurisdiction. The office was described in Oughton's "*Ordo Judicorum*" at the Prolegomena. [His Lordship read the passage quoted in the argument of Dr. Bayford, and often afterwards mentioned, see p. 106.] That passage confirmed his mind that the Vicar-general's office was not *officii meri*, but was of a judicial nature; and if he acted judicially, it could not be doubted that he would have power to summon witnesses. He laid no stress on Rives's opinion, as quoted in the case of Mountague, and referred to in Bishop Godwin's *Life of the Prelate*; but otherwise that treated citation as a real and not as an illusory proceeding. In the course of the argument, the statute of Henry VI., not found in the common collections, was cited. Under that statute the Archbishop was

do all things canonically. There were no penalties affixed for disobedience, but the directions were as plain as in the statute of Henry VIII. If confirmation was a judicial act, the next question was, who was entitled to interfere in the progress of it? The citation was to all opposers to come forward, and this notice was stuck up in the church previous to confirmation; and at the confirmation various means were taken to let it be known. Whether these proceedings were had before the statute of Henry VIII. did not appear; but if not, still their existence afterwards was strong evidence that the confirmation was a judicial act. That citation was to have some effect was clearly established. He was not justified in saying that it was an illusory form, though there might be particular instances in which no effects followed from it. [His Lordship quoted the words of the citation.] It was difficult to say that the Vicar-general could be justified in refusing to allow to appear persons who offered themselves as having objections, unless by the express terms of the statute he was precluded from receiving them. If the citation was made bona fide the Archbishop could no more refuse to hear them than this Court could have refused a challenge to the panel while the right to make it existed by law. As now advised, he was of opinion that there had been a declining of jurisdiction on account of a misconstruction of a statute, and the Archbishop was liable to be called on to exercise that jurisdiction; and as all persons were cited but were not allowed to appear, and as two of those persons had an interest as incumbents within the diocese, he thought that they were parties aggrieved, and as such were entitled to a remedy. Then arose the question whether a mandamus was the proper remedy. None other was shown. One learned counsel had asserted that proceeding by appeal was the proper course, but he (the learned Justice) entertained a doubt as to whether an appeal would lie under the circumstances. Dr. Addams had stated that there would be an appeal if the persons appeared; but the learned counsel entertained a doubt as to whether parties who had not been allowed to appear would be in a situation to appeal. Here, therefore, was a declining of jurisdiction where, as he thought, a jurisdiction existed; and, in his opinion, that was a case for a mandamus. The *King v. the Justices of Kent*, 14 East, 395, was an authority on that point. If this was a misconstruction of a statute, which would render the confirmation void, and was not merely an erroneous decision in the exercise of an ordinary jurisdiction, then the mandamus would lie, otherwise it would not, for this was not a court of error; on the decisions of the Vicar-general's Court, (the *Bishop of St. David's v. Lucy*) both parties were before the Court, but here the parties were not allowed to appear. In the *King v. the Justices of Carnarvon*, 4 Barnwall and Alderson, Mr. Justice Holroyd said that if the justices had only heard one side, it was illegal; and the same doctrine was held in the *King v. the Justices of Cumberland*. These cases were not precisely in point, nor were they cited as being so, on one side or the other. [His Lordship here went further into a consideration of these cases.] If, indeed, by the known practice of confirmation at all times, the citation of opposers was always a mere idle ceremony, meaning nothing, and not intended to be acted upon by those who made it, like the challenge of the champion at the coronation, then would *ex parte Smyth*, 3 Adolphus and Ellis, 719, be in point. But if he understood the case rightly, it was not so met by Vicar-general. It had been also stated that the opposers might have sought redress under the Church Discipline Act; but that did not apply.

This was not a proceeding against the Bishop elect, but was a *show* that he was not entitled to be confirmed. That act, therefore, nothing to do with the question.

In coming to the conclusion at which he had arrived, he entertained great and serious doubts. His mind had continually fluctuated on the argument, more particularly on the point as to the power of the Court to grant a *mandamus*, and now he could not but feel the difficulty of coming to a satisfactory decision, considering that Lord Denman and Mr. Justice Erle were both of an opposite opinion. This was a question of great importance, and for that reason he thought it fit to bring the matter into that shape which would enable the unsuccessful party to carry the case to the Court of Error. The power of this Court in granting writs of *mandamus* had been materially affected by a recent statute. Formerly, when the judgment of this Court was final, nothing was gained by issuing the writ, but now it was the reverse, while, by refusing the writ, the party applied for it was deprived of the benefit of the statute, whereas, by granting it, the other party could receive no injury. He was, therefore, of opinion that the writ ought now to be granted, unless the Court should be of opinion that when granted it could not be sustained. He was aware of the agitation of men's minds on this subject, and of the inconvenience of further delay, but he did not think these objections were sufficient to justify their refusing to put this matter in such a shape that it could be carried to a Court of Error. He had not alluded to that part of the affidavit which disclosed the nature of the objections to be relied on by those who intended to prosecute this writ, nor was it necessary to do so. He considered it a miscarriage of the inferior Court to have been, in refusing to allow the party to appear and to object; but he did not pretend to decide in any way on the question intended to be raised on the objections which he had proposed. Upon those objections it would have been the duty of the Archbishop or the Vicar-general to determine. The present motion should be considered wholly independent of the question who were the parties concerned, and what were the objections. It was a matter that was equally applicable to every confirmation of every Bishop. On that point, therefore, he was of opinion that a case had been made out for granting the writ, and that the rule ought to be made absolute.

**LORD DENMAN:** This is an application made by certain reverend gentlemen for a writ of *mandamus* to the Archbishop of Canterbury, to oblige them to appear as opposers to the confirmation of the Bishop of the diocese of Hereford. The affidavits on which it rests state, in substance, that at the confirmation which took place in Bow church the confirmation was proclaimed, calling on all opposers to appear and state their objections; that they did appear by counsel; that they were permitted to do more than argue in favour of their right to be heard, but that which the Vicar-general proceeded with the confirmation, and decided that the opposers did not appear, and pronounced them all guilty of contumacy for not appearing. The objections which they wished to put in opposition to the confirmation of Dr. Hampden were founded on books published by him, which they said contained doctrines repugnant to the articles of our Church and the doctrines of our religion; and they contend that the confirmation made under these circumstances, by reason of this refusal to hear the opposers, was wholly null and void.

The first argument urged in objection to the issuing of this writ is, that it will not lie in such a case. I am clearly of a contrary opinion, and even if I doubted on that point, I should think it better to

writ of mandamus, reserving the question to a writ of error, than by refusing the mandamus to risk the prerogative of the Queen, by taking away the opportunity of asserting her rights in other Courts. On other occasions the issuing of this writ is not only important to the interests of the Crown, but its necessity of late years to enforce the claims of the subject in many very important cases, has become frequently more and more manifest. I advisedly abstain, therefore, from discussing this part of the question, more especially after the able judgment which my brother Patteson has delivered upon this point. My judgment will proceed on the other points in the case.

I admit, too, that a *prima facie* case of wrong has been made out by these applicants. There had been a previous citation for opposers, and a proclamation was made, more than once, at the time of confirmation, to the same effect; circumstances which, to my mind, furnish some evidence that these opposers had a right to be heard, and to make objections, and that when the opposers came to make their objections, to stop their mouths at the very outside, and close the door upon them, was a practice which reflected no honour on the wisdom of those who formed the Court. Its absurdity is only exceeded by the sentence of contumacy, pronounced on those who do appear and press for a hearing, and who are nevertheless condemned for not appearing. This anomaly, thus deliberately wrongful, has been avowed to be the settled practice of the ecclesiastical authorities, by persons who are entitled to our very highest respect and our greatest confidence—among others, by the venerable Primate of the realm, one who had been a Bishop for more than a quarter of a century, and an Archbishop during a greater part of that period; one who must have necessarily taken a leading part in the confirmation of almost all the Reverend Prelates that now adorned the Bench; one who, in trying times, uniformly displayed the utmost prudence, moderation, and caution; whose admirable discharge of his high functions has inspired us all with the utmost reverence, and whose fine mind, not impaired by age, but matured by experience and reflection, so nobly adorns and dignifies his elevated position.

The proceeding, too, has been sanctioned, as one fully established, by persons most eminent in ecclesiastical law, most conversant with that law, and most practised in its administration,—I mean those learned gentlemen who were his Grace's immediate agents in this business, and all of whom justify what they have done, not by any attempt to show that it is consonant to justice, reason, or propriety, for, on the contrary, they lament an adherence to a practice so full of scandal, but because it is in conformity with the statute of the 25th Henry VIII., the settled law of the land, which says that the opposers shall not be heard; which prescribes how a person elected to a bishopric shall be confirmed, and fully sets forth all the particulars by which all Bishops are thereafter to be named, appointed, and consecrated. The first step in the process of the election on the voidance of a see, is the *cong  d' lire*; then the election, which must be in conformity with the letter missive sent with the *cong  d' lire*; then the certification of the election under the seal of the chapter to the King; after which, "the person so elected shall be reputed and taken by the name of lord elect of the said dignity and office that he shall be elected into;" then, after the oath of fealty, "the King's Highness shall signify the said election, if it be to the dignity of a Bishop, to the Archbishop and Metropolitan of the province where the see was void, requiring and commanding such an Archbishop to whom any such signifi-



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King knew the obsequious Archbishop he had in Cranmer, that he could safely entrust him with that power, for that he would readily conform to the wishes of the royal mind, and readily confirm whatever bishop was presented to him by the King. Cranmer was certainly not a firm man—very far from it. He betrayed, on one occasion, a lamentable want of firmness; not, however, greater than him who was selected from among the apostles as the Rock upon which the Church was to be built. Yet, whatever might have been the want of firmness which he at one time displayed, his noble bearing when he met his fate might have protected him from the observation thus made, and, as I think, unjustly made, on his character. In a court of law, in a Christian assembly, in the presence of so many learned and faithful sons of the Church of England, I did not expect to hear the name of Cranmer introduced in such a way, and for such a purpose. I do not say this merely for the sake of making observations on the learned gentleman who uttered those sentiments; but I allude to them as showing the excitement of mind which prevails on this subject, and makes even a learned counsel, in the discharge of his duty, cast such imputations. We must not be led away by this excitement, nor suffer impressions of this sort to blind us to the evil of yielding too much to the authority of that ecclesiastical power which, in my opinion, it has been the duty and the boast of this court in all ages to watch with peculiar jealousy. [The auditors here were bursting out into an expression of applause, but were checked by the officers of the court.] If Henry VIII. reckoned on the obsequiousness of Cranmer's mind as favouring his caprices, he was most assuredly much mistaken in his man. Cranmer had more than once thwarted the King's wishes. The Archbishop opposed him when he sought to sacrifice Anne Boleyn; when others gave way Cranmer alone stood firm, and no surer method can perhaps be found for exasperating a selfish monarch than that of protecting his Queen when he is resolved to commit towards her a great and flagrant injustice. Cranmer's learned remonstrance has been preserved by Burnet. Again, in 1539, when the Six Articles were drawn up by the Committee of Privy Council, Cranmer met them with a vigorous opposition, spoke against them in the House of Lords, and declined to obey the King's injunction to absent himself from Parliament. In consequence of this conduct, so entirely the opposite of obsequiousness, he had to bear, first, degradation from office, then torture, and then death. But taking this expression in its mildest sense, Cranmer was not immortal. There were others who after him would hold the office of Archbishop, and who might not yield to the King. There were instances of this spirit of opposition to the King. Henry saw his own beloved chancellor lay his head on the block rather than sign the admission of Henry's supremacy; and he could not be ignorant of times past, which recorded that, in the reign of another Henry, an à Beckett had resolutely opposed the exercise of the kingly power in the affairs of the Church.

It does then occur to the mind to ask why, having the means of securing his supremacy, he should leave it in hazard in this way. The reason for such conduct cannot be conceived, and the less so since Parliament had often had such complaints of the proceedings in the Archbishops' courts that it could have little inclination to invest them with a new and important jurisdiction. In fact, the whole argument in favour of the supposition that it did so, rests on the single word "confirm" in the statute. But that word is joined with "election:" "shall confirm the election." These words plainly describe a duty as connected with election, which



was to be performed by somebody, and which devolved in ancient on the Metropolitan. When the election was real, two things required to be certified to the Archbishop: first, that the election was duly made; and secondly, the identity of the person who brought the certificate, being further desirable, no doubt, that the Archbishop, by his benevolent and gracious reception of his new colleague, should inspire the elect with confidence and respect for him. But those who maintain the contrary say that the Archbishop had more to do than to see that certain formalities were fulfilled; that it was his duty to hold a court and to be an opposer to the authority of the Bishop elect, and to reject or confirm him. The question is not whether the Archbishop had authority to confirm or reject the elected Bishop, but whether he was bound to do so? The Bishop must have been a Deacon. Before becoming a Priest, he must have undergone an examination; so he must when he became a Priest, and his ordination could only proceed on that examination being satisfactory. Every Bishop has undergone these ordeals, and the elect is fully enabled to institute inquiries into his character, conduct, and learning, before he comes to be made a Bishop. But he comes as Bishop elect, with the additional testimony of the election by the clergy who are competent to form a judgment upon him, and with the sanction of the Crown in his favour. Is this to pass for nothing? Is the testimony of no value? Is it after all these things that when he is to be made a Bishop a call is to be made on all mankind for an opinion upon him?

If the election of Bishops was in the people at large, every one would have a right to vote upon his fitness. But here the election has been taken from the people, and vested in the Dean and Chapter, who have presented him as their Bishop. The limitation of time imposed on two processes in the making of a Bishop, supported the belief that the examination and inquiry at the Vicar-general's Court could no longer take place. In the first place the election must be in twelve days, and the consecration must be within twenty days. That latter period would be sufficient for the transmission of documents from all parts of the country to give information to the Crown, though it might not be sufficient for the sort of examination now sought to be required. It is clear that the election itself is a mere form, the appointment being in terms to the King. The consecration was a more solemn act; the Book of Common Prayer prescribed the forms by which the Bishop elect was to receive episcopal ordination. The Archbishop received him from the hands of two Bishops, the oath of fealty followed, and then the Archbishop asked certain fixed questions to him that was to be consecrated, and to which fixed answers were given. The 36th Article ordains especially that the consecration shall be in this form. The consecration was, therefore, to be in the election. It was initiated by the Dean and Chapter, and consummated by the Archbishop. If this were so, then it was asked whether the consecration should be more real than the confirmation? The answer was, that the word "confirm" had a known meaning in the time of Henry VIII., and was used by the Legislature in that sense.

After remarking that though the word may bear a legal meaning, it does not follow that that meaning is the one which the supporters of this rule assign to it. I ask, whether confirmation can mean the holding of a court of inquiry, such as is now contended for. The authority of the sovereign is, by their argument, supposed to place a Bishop

in no position analogous to any thing but that of a felon, with whose trial a jury is charged : he has to plead not guilty in public, and to do so after proclamation has been made to all who "can inform the court of any felony or misdemeanor done or committed by the prisoner," to come forth and they shall be heard.

This is the position in which it is now contended a Bishop elect, whose doctrines have been approved of at his ordination to the offices of Deacon and Priest—who has been nominated by the Crown, and elected by the Dean and Chapter, is to be placed by the favour of his Sovereign ; and the charge is to be made blacker, if possible, by the use of the full and comprehensive word "heresy." While on this subject, I think it right to observe that the canon law is not part of the law of England, unless it is made so by the authority of Parliament here, or by ancient and uninterrupted use and acknowledgment. The burden of proving that a particular part of that law is the law of England rests with those who assert it to be so. But I do not need to go to that principle here, for I am fully convinced that the practice never has existed authoritatively in this country, and for that I mainly rely on the speeches of the supporters of this motion, who have satisfied me that no such opposers were ever heard, but that the form of confirmation ever was a confirmation absolute. A proceeding so extraordinary, so striking, that if it took place it must have been known to everybody, has not left a single trace of its existence among all the records of the country. All records, historical and legal, are a perfect blank upon the subject. This shows that opposition of this sort was not usual, nor was it ever deemed necessary ; and if it had been, it would have been allowed in this form, a form which, on the bare suspicion of unsoundness of doctrine on the part of a Bishop elect, places him in a situation worse than that of a felon. No spiritual crime could place him in a worse situation.

But suppose his doctrine to be sound, his piety undoubted, his morals excellent—he might still be assailed in this way, and reduced to a cruel state by the jealousy of a rival, or the bitterness of theological opponents ; and assuming that no such causes existed, are no persons capable of making false charges, and is no one ever brought under examination except on perfectly justifiable grounds ? Is envy dead, and faction buried ? Are there no sons of Belial ? And are we, by stretching the words—nay, one word—in an Act of Parliament, against the plain intention of the whole act itself, to give a power to such objectors, to place men favoured by the Crown, and called to so high an office in the Church, in a position so painful to them, and so capable of injury to the establishment ? One objector may say, "Here am I to tell you that I remember this Bishop elect at college twenty years ago, when he was guilty of some irregularity of conduct ;" another might say that he was justly suspected of having recently performed divine service in a state of inebriety. A third might charge him with "vanity." His mother's chastity might be impeached, or his own conduct as a disobedient son. All that the Pharisee blessed himself in being free from, these people might falsely allege against the Bishop. He might know all the allegations to be false and infamous ; the Archbishop might think the accusers utterly unworthy of belief, or know the charges to be false, but, nevertheless, the inquiry must proceed, and, though they should be disproved, and the confirmation take place, still the fatal calumny must remain. But how much is the case strengthened when the charge is the

unfathomable one of heresy, supported by extracts from books, poorly little understood; and by reported conversations, probably imagined, and, if real, difficult to be correctly repeated? If entered upon, it is that the confirmation would be "letted and delayed," though it express direction of the statute that such shall not be the case, while the Archbishop's whole time would be diverted from the discharge of his high duties to the listening to this absorbing investigation.

The schedule to the statute of Henry VIII. is correctly copied by Stephens in his useful and convenient book, entitled "The Statute relating to the Ecclesiastical and Eleemosynary Institutions of England." But in the court of confirmation, which is to be turned into a court of opposition, we cannot there find any means for discovering what is done upon entering on this opposition. In truth, the non-appearance of the opposers is as much a part of the statutory proceedings as any other. The objection to all change which so often obstructs all improvement, and perhaps the existence of some emolument attached to the ceremony, occasioned its retention. Idle it was, I believe, in a long time, but we know that it has been gone through for three centuries without any practical purpose or result. During this long period it has been a mere form—why should it not have been so in former times? It could have no other result than to create a popular ferment, and to render possible the renewal of those scenes the occurrence of which was said to have first occasioned the Emperors to put an end to the pretensions of the Bishops.

What a mighty edifice has been built upon this naked word "confirmation." We are told that the Archbishop or the Court of Audience has this jurisdiction. We know by the clear expressions of Oughton's "Ordo" that the Vicar-general has it not, for that he has not in this matter any contentious jurisdiction, and I cannot find that that Court has ever exercised what the Archbishop is now called upon to do. There is, on the contrary, the clearest proof that the appointment of Bishops has long been exclusively in the Crown, and that no opposers to its will have had a shadow of the power to contend with it. The records of the Court are silent on the subject. In what way, therefore, was the jurisdiction contended for necessary? In none whatever.

But it is said that this jurisdiction was sought to be set in motion in the single instance of Bishop Mountague; and the Vicar-general Rives, is stated to have refused the hearing of the opposers, but his refusal is said to have been grounded in error. We do not know much of him, nor is the manner in which he acted in this case much to his credit. He gave a reason for what he did—it was an obiter dictum, and I do not admit the claim to make law from such means. He was wrong in deciding that the objections could not be received, because they were not in writing, if he did so decide. But this is doubtful, for in Gibson's account nothing is said of the objections not being in writing, nor would such an objection be valid, for an opposer might not be able to write, and might not be compelled to appear by a proctor. But if that case is to be cited as an authority for this application, then the opposition to the present election of Manchester was good, and the refusal to entertain it is good ground for a mandamus. But this Court has a discretion to grant or to refuse a mandamus, and it appears from the case of "Evans v. Ascutthorpe" which the Dean of York having been promoted to the bishopric of Bath and in the interval granted leases in conjunction with the chapter, it has been mooted whether his election was valid. In the course of the

ceeding, opposition cooled very much. Judge Whitelocke, it was true, alluded to the possibility of the ceremony not being completed, but he never dropped a hint in favour of the opposers' right to be heard, or that the refusal to hear them would be a good ground for the intervention of this Court.

In the course of this discussion a very useful pamphlet has been cited.\* The general scope of it is clearly laid down in the 37th Article of the Church of England, that the Sovereign has not the power of the Keys; but there can be no doubt that the Sovereign has the power of conferring states and degrees in the Church. One of the extracts of which that pamphlet is composed is a remarkable dialogue between a Roman Catholic and an English Churchman. The former remarks that Kings are not Popes, though they assume the appointment of priests. The other answers that freedom of election does not exclude the King's authority, and the dialogue thus proceeds:—

*Philodox.*—But if the King, deceived by undeserved recommendations, should happen to propose to the clergy a person unlearned, or of ill morals, or otherwise manifestly unworthy of that function, what's to be done then?

*Orthodox.*—Our Kings, Philodox, are wont to proceed in these cases maturely and cautiously—I mean, with the utmost care and prudence; and hence it comes to pass that the Church of England is at this time in such a flourishing condition.

*Phil.*—Since they are but men, they are liable to human weakness; and therefore what is to be done if such a case should happen?

*Orth.*—If the electors could make sufficient proof of such crimes or incapacities, I think it were becoming them to represent the same to the King with all due humility, modesty, and duty; humbly beseeching his Majesty, out of his known clemency, to take care of the interest of the widowed Church. And our Princes are so famous for their piety and condescension, that I doubt not but his Majesty would graciously answer their pious petition, and nominate another unexceptionable person agreeable to all their wishes. Thus a mutual affection would be kept up between the Bishop and his Church."—p. 17.

It further appears from the pamphlet (p. 30), that Charles II., having "taken into his serious consideration how much it would conduce to the glory of God, his own honour, and the welfare both of the Church and Universities, that the most worthy men be preferred and favoured according to their merits," resolved "that neither of our principal Secretaries of State do at any time move us on the behalf of any person whatsoever, for any preferment in the Church, or any favour or dispensation in either of our Universities, "without the opinion and attestation of four of the Commissioners appointed by him, among whom are the Archbishop of Canterbury and the Bishop of London. The same thing was done by William III., (pp. 30, 31). But in neither of those instances was the right of interference with the appointment of the Crown in any way recognised, nor any allusion made to the rejection of the individual nominated for election.

Gibson is mentioned in the same pamphlet, and he is a remarkable authority on this subject, for he was assailed by one of the most learned and eminent judges as ever sat in this Court, Sir M. Forster, as a person disposed to create an ecclesiastical hierarchy, and to make our Church an Imperium in Imperio. This charge it was that induced him to write that celebrated treatise† which still remains a perfect storehouse of ecclesiasti-

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cal law, but in no one page of which does he assert the existence of power on the part of the Archbishop to defeat by such an inquiry a right of confirmation, the right of nomination by the Crown. Certainly, questionable applications have been made in regard to the same. There are no less than four of these reported. In the case of E. Hoadley, for instance, that prelate gave his opponents four opportunities for making opposition to his confirmation, yet that Court was not ready to do so for the purpose. Archbishop Wake remonstrated successfully with the Sovereign against the elevation of Dr. Samuel Clark, and Bishop Gifford against that of Dr. Rundle, but neither of them went to the Vicar-General's Court of Confirmation for that purpose. Sovereigns have usually consulted the Archbishops before promoting men to bishoprics, but only after the election has taken place.

But I need not go to an imaginary case for proof of a very general opinion among the Bishops themselves, that this is not the proper course. In a recent instance, thirteen right reverend prelates thought an appointment highly objectionable. They addressed the Prime Minister upon it. They warned him of the dislike to such an appointment existing among many members of the Church, and of the scandal it would make if it were severed in; but they never warned him of the scandal of public opposition at the ceremony of the confirmation, nor of the possibility that the Bish-elect might there be rejected. One of the most distinguished among them urged that the Dean and Chapter could not be exposed to a rebuke by being called on to elect one who was not approved of by the ministers of the Church, but the rejection at confirmation was not hinted at. Would it not have been, if even at that moment any doubt existed that that ceremony was more than a mere form?

It has been said that, by not allowing the Arches Court to inquire into the conduct of an Archbishop would be converted into a mere "machine." I will quarrel with the phrase though so applied; but it suggests to me that this Court is now attempted to be made a mere machine, with given powers to revive a body dead ages ago, and which will, immediately after its momentary revival, relapse for ever into its dreaded repose. I am hardly right in this figure, for its revival implies that the form which vitality is to be generated had at one time animation, which, in conscience, I do not believe to have been the case. The Vicar-General in some degree resembles a returning officer. He must state that all forms required by law have been regularly complied with; and if they are not, the Archbishop may advise the Crown to recall the *compte d'administration* and may even request to be relieved from the discharge of the duty imposed on him by the statute. Extreme cases may be ingeniously devised to embarrass an argument, but they ought not to assume what in decency could hardly be possible. Yet such have been supposed here. The answer to them is simple. If the Crown will persist in violently nominating a person to whom the Archbishop has strong conscientious objections, his duty is clear; he must act as his predecessors and ours have done under similar circumstances, when required to do an act on the dictation of the Crown—an act which their consciences opposed—they must resign.

The present Archbishop, I have no doubt, would do so, after hesi-

the objections that were made to Dr. Hampden, if he did not consider that he would not be justified in such a course of procedure. I ask whether it has been the opinion of any person, until the last few weeks—until this unfortunate controversy occurred, which has so inflamed the public mind—that the Archbishop had a veto on the appointment of the Crown to a vacant bishopric? And when I heard Sir F. Kelly, with his solemn impressiveness of manner, entreat us not to expose the Archbishop to do an act against his conscience, to invoke the Almighty in prayer, and perform as a sacred ceremony that which is in reality a mockery, a shadow, and at best a useless ceremony, or to subject himself to a *præmunire*, I confess I hardly knew how the appeal ought to be met, for it occurred to me at once that other persons were to be thought of. Are the Dean and Chapter to be treated as nothing?—are their proceedings to be utterly disregarded?—do they proceed without prayer and without ceremony? And if they are required, notwithstanding, to proceed to the election without the power of refusing to elect the nominee of the Crown, why should all this declamation be referred only to the confirmation, and not to the election? This may be considered an oppressive or even an impious Act of Parliament. But if so, then let it be repealed; but do not try to get rid of its plain enactments by showing that it allows the use of solemn forms in what is, if you please, a pure absurdity.

I forbear to enter more fully into that matter, but I cannot but say that the continuance of these forms reminds me of the tale of the Roman augurs, who were said never to meet each other without laughing; and it does certainly appear to me that if the Court yielded to the request of the learned gentleman on such a ground, the advocates on both sides would have good occasion to laugh at its decision.

I have thus imperfectly (for I agree with my brother Coleridge that the time has been too short to enable us to prepare our judgments with the completeness we should desire) stated my reasons for the conclusion at which I have arrived. My opinion has, however, been deliberately formed, though not fully prepared in writing. I conscientiously entertain that opinion, and I believe that never, at any time, has the law of England allowed the practice now sought to be set up. I therefore must say that I think the Court is bound to refuse the writ of *mandamus*. On that opinion I have felt great difficulty and hesitation in acting, for I feel that to refuse the writ is to refuse the opportunity of inquiry that in any ordinary case, in a railroad or in a matter of property, there is no question that in the event of doubt on the part of any one on the bench the writ would issue, and error would then lie on any judgment we might give upon it. But I confess that my own opinion is so strong, and so entirely unchanged by any arguments I have heard to-day, that feeling the utmost disposition to do all that can be done to show my respect for my learned brethren, I cannot consent to say that the writ ought to go. I am convinced that if it went it would be good for nothing. The return which would be made to it, would afford a complete answer to it—it could give no satisfaction to any one—it would effect only this object (most to be deprecated) to keep alive a frightful state of theological animosity, and to interpose a long delay in the settlement of this bishopric. During the whole time the bishopric would be vacant. Is it desirable that it should be so? In the meantime other bishoprics may become vacant. The excited state of mind thus kept up would occasion the greatest mischiefs, and the Archbishop would, in fact, be compelled to



keep an open court—a court never closed—since it is impossible to imagine the grounds that might not be urged in opposition to any one who had been nominated to a bishopric, if he could be subjected to an open inquiry of this sort, It must also be borne in mind that the Court has a discretion to issue or withhold a mandamus. Suppose I thought it very doubtful how the law was, I might be of opinion that it should be issued; but I should even then be entitled to exercise my discretion on the subject. The Bishop of Manchester has been consecrated in spite of some attempt at opposition. If this consecration shall follow, this question may again arise, except on the supposition that these proceedings are altogether null and void, for which I cannot find in the law of this country the least possible justification. Under all these circumstances, feeling the utmost respect for my learned brothers, who I see with regret do not entertain the same views on the subject with myself, I must yet own that some deference is due also for the opinion of the very high and exalted person who is named as a defendant in this rule, and that in the decision at which I have arrived I believe I shall best contribute to the peace of the Church, and the safety of the State. An opposite course might put everything to hazard. The consequences it is impossible to foresee, if the smallest doubt existed as to the true meaning of the Act of Henry VIII. I repeat that I have the greatest respect for the opinions of my learned brethren. I think this is a question which ought to have been discussed. The balance of convenience certainly appears to me to be in favour of discussion. I must say, in reference to my brother Coleridge's admirable argument, that it only confirms me as to the danger of exposing the clear construction of Acts of Parliament to those who would bring down their forgotten books, and wipe off in this Court the cobwebs from decretals and canons, of which they know nothing. For these reasons, and thinking myself bound by the Act of Parliament and by the practice which has prevailed, I think the rule must be discharged.

The Court being equally divided in opinion, the rule for mandamus was accordingly discharged.

## C A S E

FOR THE OPINION OF SIR FITZROY KELLY, DR. ADDAMS,  
MR. A. J. STEPHENS, AND MR. BADELEY.

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THE See of Hereford having lately become vacant, by the promotion of Dr. Musgrave to the Archiepiscopal See of York, Dr. Hampden was, in obedience to the Queen's mandate and letters missive, elected in his room by the Dean and Chapter of Hereford. At a Court, holden by the Vicar-General of the Archbishop of Canterbury, at Bow Church, on the 11th day of January last, for the purpose of confirming such election, in answer to the first citation, three Clergymen (two of whom hold benefices in the diocese of Hereford) came forward, by their proctor, to oppose Dr. Hampden's Confirmation, and in due form of law tendered articles of objection impeaching his orthodoxy. The Vicar-General refused to entertain the objections, or even to suffer the opposers to appear ; thereupon they applied to the Queen's Bench for a *mandamus* to compel the Archbishop or Vicar-General to hear them.

That Court at first granted a rule *nisi* ; but, on cause being shown, the Judges were equally divided in opinion, and in consequence the application for the *mandamus* fell to the ground.

You are now requested on the part of the objectors, to state your opinion whether they can or ought to take any, and what further steps, either by a writ of error, appeal, petition to the House of Lords, or otherwise, with a view, first to establish their right to urge their objections in opposition to Dr. Hampden's Confirmation ; and, if successful, then to try the question of his fitness, in point of doctrine, to be confirmed and consecrated to the See of Hereford.

OPINION.

As the Court of Queen's Bench has given no judgment in this case, neither declaring what the law is, nor enabling the objectors to ascertain it, we cannot suggest any other means by which redress can be secured.

We are of opinion that no writ of error lies from the late proceedings in the Court of Queen's Bench, that remedy being confined to cases where the

writ of *mandamus* has issued, and it for this very reason that on other occasions, however unimportant (as Lord Denman admitted in his judgment) where any of the judges have expressed the slightest doubt, the Court has always allowed the writ to go, to prevent a failure of justice: the late statutes of 1 William IV. c. 21, and 6 and 7 Vict. c. 67, having been passed expressly for the purpose of giving by means of that writ more easy and effectual relief.

We are also of opinion that no appeal lies in the present case from the sentence of the Vicar-general, to the Judicial Committee of the Privy Council, the want of such a power of appeal having not only been admitted, both by the bench and at the bar, during the late argument in the Court of Queen's Bench, but having also been expressly declared by Mr. Justice Patteson, in his judgment.

We think, however, that, under these circumstances, it may be desirable for the objectors to present a petition to the House of Lords, setting forth the facts of the case, and praying their Lordships to take such steps as they may deem expedient for providing an adequate remedy, and for ascertaining what the law on this subject really is. As the Judges of the Queen's Bench are equally divided in opinion, it is obvious that the law is at present doubtful, and that the Court is unable to remove that doubt; and it is impossible to deny that the greatest inconvenience must exist so long as the doubt remains, for not only may the very same difficulty recur on every future Confirmation of a Bishop, but the validity of Dr. Hampden's Episcopal acts and the exercise of his jurisdiction will be liable to be disputed. Independently of these reasons, it may be presumed that the House of Lords will be disposed to entertain such a petition, as involving matters affecting its own privileges: for, if Dr. Hampden's election be not duly confirmed, he has no right to a seat in that House, that right accruing only upon Confirmation, when legally performed.

FITZROY KELLY.

J. ADDAMS.

A. J. STEPHENS.

EDWARD BADELEY.

Temple, Feb. 18, 1848.

APPENDIX.

A PARTICULAR ACCOUNT OF THE ANCIENT METHOD AND MANNER OF ELECTIONS OF BISHOPS.

From Bingham's Antiquities of the Christian Church, book iv. chap. 2.

1. THE grand question in this affair, upon which learned men are so much divided, is concerning the persons who had a right to vote in the elections of the clergy. Some think the people were never allowed any other power, save only to give their testimonials to the party elected, or to make objections, if they had any just and reasonable exceptions, against him. So Habertus, and Sixtus Senensis, and Bellarmine. Others say the people were absolute and proper electors, and that from apostolical right, which they always enjoyed for a succession of many ages. This opinion is advanced, and with great show of learning asserted, by Blondel, against Sancta Clara, and the rest of the other opinion. De Marca takes a middle way between those two extremes. He says the people had as much power anciently, as any of the clergy below bishops; that is, their consent was required, in the promotion of a bishop, as well as their testimony: yet he will not allow this to be called electing; for the designation, election, or judgment, he says, still belonged only to the metropolitan, together with the synod of provincial bishops. And though we read sometimes of their giving their vote or suffrage, yet that, he says, is only to be understood of suffrage of consent, not the suffrage of election. But Mr. Mason, in answer to Pamelius, who had advanced something of this notion before De Marca, rejects this as a deluding distinction, and asserts, that the people had properly a voice or suffrage of election, and he quotes Bishop Andrewes for the same opinion. Yet he does not carry the point so high, as to maintain with Blondel, that it was of unalterable right, but left by God as a thing indifferent, to be ordered by the discretion of the church, so all things be done honestly and in order. And this seems to have been the opinion of Spalatensis, Richerius, Justellus, Suicerus, and some other learned men of both churches. Others there are, who distinguish between the times preceding the council of Nice, and those that followed after: for they think whatever power was allowed the people in the three first ages, was taken away by that council, and the councils of Antioch and Laodicea, that followed not long after. So Schelstrate, in his dissertations upon the council of Antioch, where he quotes Christianus Lupus and Sirmond for the same opinion. But this is exploded

as a groundless fiction, not only by Spalatensis, and Bishop Pearson, but also by Richerius, Cabassutius, Valesius, Petavius, De Marca, and other learned persons of the Roman communion, who think the fathers of the Nicene council made no alteration in this matter, but left all things as they found them. Some, again, distinguish between the election of bishops and the other clergy, and say, the people's consent was only required in the election of bishops, but not in the promotion of the inferior clergy. So Cabassutius, and Bishop Beverege, who reckons this so clear a point, that there is no dispute to be made of it. Yet Valesius disputes it, and asserts the contrary, that anciently presbyters were not to be ordained by the bishop without the consent of the clergy and people. Bishop Stillingfleet, who is one of the last that has considered this matter, gives us his sense in these following observations. First, that the main ground of the people's interest was founded upon the apostles' canon, that a bishop must be blameless and of good report. And therefore, he says, the people's share and concern in elections, even in Cyprian's time, was not to give their votes, but only their testimony concerning the good or ill behaviour of the person. Secondly, that yet upon this the people assumed the power of elections, and thereby caused great disturbances and disorders in the church. Thirdly, that to prevent these, many bishops were appointed without their choice, and canons made for the better regulating of them. Fourthly, that when there were Christian magistrates, they did interpose as they thought fit, notwithstanding the popular claim, in a matter of so great consequence to the peace of church and state. Fifthly, that upon the alteration of the government of Christendom, the interest of the people was secured by their consent in parliaments, and that by such consent the nomination of bishops was reserved to princes, and the patronage of livings to particular persons. In this great variety of judgments and opinions of learned men, it will be no crime to dissent from any of them, and therefore I shall take the liberty to review their opinions, and express impartially what I take to be agreeable or disagreeable in any of them to ancient history, and the rules and practice of the church.

And here, first of all, it will be proper to observe,

“The King's Highness shall signify the said election, if it be to the dignity of a Bishop, to the Archbishop and Metropolitan of the province where the see was void, requiring and recommending such Archbishop to which such signification shall be made to confirm the said election, and to invest and consecrate the person so elected to the dignity and office he is elected unto, and to give and use to him all such benedictions, ceremonies, and other things requisite for the same, without suing or procuring any bulls from Rome, &c.”

The Archbishop was required to confirm, but he was not required to confirm without inquiring, or without observing any of the acknowledged and accustomed forms. The statute was silent as to them. If the statute had provided that the election should be by *congé d'élire*, and had not introduced the new matter of the letter missive, there could not be a doubt that the election would have been free, and then the consecration and confirmation would have been as in the olden time. It was therefore most important to consider what was the effect of this letter missive, not only on the election, but on the confirmation and consecration. It might be admitted that the provisions of the statute did make the election matter of mere form. But did they also make the confirmation matter of mere form? It was said that they did so, not so much by the very words of the statute in speaking of the confirmation itself, but by the words of the statute in declaring that “If the said dean and chapter after such license and letters missive to them directed, within the said twelve days do elect and choose the said person mentioned in the said letters missive, according to the request of the king's highness, thereof to be made by the said letters missive in that behalf, then the election shall stand good and effectual to all intents.” He was by no means sure that such was the meaning of these words. They might merely mean that the election should be as good as it would have been when it was a free election, though it had not been confirmed. But even if it meant more, still the statute did not enable the Crown to perfect the election without confirmation, though in some sense it had bound the Archbishop not to make election inoperative, though he might still do so, if he thought fit to incur the penalty of a *præmunire*. It was, however, a better construction to hold that the Legislature intended that the ultimate perfecting of the election should depend on the election, though in the mean time the election was good to all intents. Where the Crown nominated the Bishop, in the defect of election the statute showed that the Legislature thought confirmation unnecessary. The fact that confirmation was not there mentioned, was not an oversight; the 2d Eliz., c. 4 (the Irish statute), which abolished elections, did not make any mention of confirmation from the beginning to the end of it. Hence arose the other argument, by which it was contended that as the Legislature thought confirmation unnecessary when the Crown directly appointed by letters patent, it never could be intended to be absolutely necessary where the Crown appointed indirectly, by means of a *congé d'élire* to the dean and chapter; that therefore the confirmation must be taken to be a mere ministerial act, and a matter of mere form; that the form of the confirmation was preserved because the form of election had been preserved; but that neither of them was intended to be real or substantial. It was difficult to see why confirmation should not be necessary where the Crown had appointed directly; but it was often in vain to conjecture the reasons of the Legislature, and it was impossible to account for all the provisions of this statute. He saw nothing that imported confirmation and consecration to be mere forms; neither one of them was so treated, and both were spoken of in the same sentence and in the same kind of language. He did not

way of giving their assent or dissent to the ordination of any person: which was threefold: for, either, first, they were unanimous in their vote for or against a man, and then their way was to express their mind by a general acclamation, crying out with one voice, *Ἀξίος*, or *Ἀνάξιος*. *dignus* or *indignus*, as the word then was. He is worthy, or unworthy. Instances of which form the reader may find in St. Ambrose, St. Austin, Eusebius, Philostorgius, Photinus, the author of the Constitutions, and several others. Or else, secondly, they were divided in their choice, and then they expressed their dissent in particular accusations of the parties proposed, and slings, and sometimes outrageous tumults. St. Chrysostom reflects upon this way in his books of the priesthood, when he tells us, that in those popular solemnities, which were then customarily held for the choice of ecclesiastical rulers, one might see a bishop exposed to as many accusations as there were heads among the people. And the account that is given, not only by Ammianus Marcellinus, but by Socrates, and the other historians, of the tumults raised at Rome in the election of Damasus, shows that the people were indulged in something more than barely giving testimony, else they had hardly run into so great a heat and ungovernable tumult. There was also a third way of expressing their consent, which was by subscribing the decree of election for greater security, that no party might pretend afterward that they had not given assent to it. Thus it was in the election of Meletius, bishop of Antioch, who was chosen by common consent both of catholics and Arians, each party presuming him to be of their own opinion. The election-paper was subscribed by all, Theodoret says, and put into the hands of Eusebius Samosatenensis, which Constantius, when Meletius proved a catholic, demanded to have had it destroyed, but with all his menaces he could not extort it from him. St. Austin gives the like account of the election of Euphrasius his successor at Hippo, which for some reasons he got done in his own life-time. He first ordered the notaries of the church to take the acclamations of the people in writing, and then required all that could write, to subscribe the instrument themselves. And this was the common way, whenever the metropolitan could not be present at the election; then the decree of the whole church was drawn up in writing, and carried to him for his consent and approbation. The remains of which custom may still be seen in the ancient *Ordo Romanus*, where there is a form of a decree, which the clergy and people were to sign upon their choice of a bishop, and present it to the metropolitan and the synod, in order to his consecration. In which case, if the metropolitan found him upon examination to be a person every way qualified, as they represented him, he then confirmed and ratified their choice, and so proceeded immediately to his ordination. All which argues, that the people had something of a decisive power in elections, and that their suffrage was not merely testimonial.

7. Fourthly, this is further evident from the use and office of interventors in the Latin church, whose business was to promote and procure a speedy election of a new bishop in any vacant see, as I have had oc-

casión to show in another place. For in the Roman and African churches, upon the vacancy of a bishopric, it was usual for the metropolitan to grant a commission to some of his provincial bishops to go to the vacant church, and dispose the clergy and people to be unanimous in the choice of a new bishop; and when they were agreed, they petitioned the metropolitan by the interventor to confirm their choice, and with a synod of provincial bishops to come and ordain him whom they had elected. Or else they drew up an instrument in writing, subscribed both by the interventor and themselves, and presented the new elect bishop to the metropolitan, who ordained him in his own church. This was the practice of the Roman province in the time of Symmachus and Gregory the Great, as appears from their epistles, which gave directions to the interventors, or visitors, as they call them, concerning their behaviour in the present case. Let no one, says Symmachus, draw up an instrument of election without the presence of the visitor, by whose testimony the agreement of the clergy and people may be declared. And Gregory, writing to Barbarus, bishop of Beneventum, and visitor of the church of Palermo, bids him endeavour to make the clergy and people unanimous in their presentation of a worthy person to be their bishop, who could not be rejected by the canons; and then drawing up their petition in form of a decree signed with all their hands, and the letters testimonial of the visitor, they should send him to Rome for consecration. Nothing can be plainer, than that here the clergy and people made the choice of their bishop, with the assistance of a visitor or intervenor, and then presented him to the metropolitan; who, if he had no canonical exception against him, confirmed their choice, and proceeded to his ordination.

8. Fifthly, as a further evidence of this power and privilege indulged to the people, it may be observed likewise, that it was customary in those days for the people in many places to lay violent hands upon persons, and bring them by force to the bishop to be ordained. Thus Possidius tells us it was in the ordination of St. Austin, the people seized him and brought him to the bishop, requiring with one voice that he would ordain him presbyter, whilst he in the mean time wept abundantly for the force that was put upon him. Paulinus says the same of himself, that he was ordained presbyter by force, and the irresistible violence of an inflamed and zealous people. And there are many other instances of the like nature.

9. Sixthly, I observe but one thing more relating to this matter, which was the compliment that some bishops passed upon their people upon this account, styling them fathers, in regard to the share and influence they had in their designation and election. St. Ambrose himself, speaking to his people, addresses himself to them in this style: Ye are my fathers, who chose me to be bishop: ye, I say, are both my children and fathers; children in particular, fathers altogether. In which words he plainly refers to that providential consent of the people of Milan, who, when they were divided before into several factions, as soon as Ambrose was named, all

unanimously conspired together in his election. These are some of those collateral evidences, that may be brought to prove that anciently the clergy and people joined in a common vote in the election of their bishop, and that their suffrage was some-

thing more than testimonial, especially in the fourth and fifth ages, in the Latin church, where, as De Marca owns, the people's request was chiefly considered.

THE PALL.

From Chronicles of the Ancient British Church, p. 184.

THE origin of the pall is obscure; but its use is of high antiquity. Tertullian, who lived at the beginning of the third century, wrote a treatise, "De Pallio." It consisted of a long strip of fine woollen cloth ornamented with crosses, the middle of which was formed into a loose collar resting on the shoulders, while the extremities before and behind hung down nearly to the feet. In the east it is called *omophorion*, and has been used at least since the time of St. Chrysostom, the bishops wearing it above the phenolion, or vestment, during the eucharist. St. Isidore of Pelusium has given some explanation of the various mystical significations of this ornament, (lib. i. ep. 136.)

The learned Peter de Marca observes, that the pall was part of the imperial habit; that the emperors gave permission to the patriarchs to wear it; and for any one to presume to use it without the royal licence, would be guilty of high treason. Hence, it appears, that when Auxanius, archbishop of Arles, [A.D. 543.] requested of Vigilius, patriarch of Rome, that the privilege of the pall might be conferred on him as vicar-apostolic, Vigilius could not grant his desire till he had gained the consent of the emperor. (Vigil. epist. i. ad Auxan. Collier's Eccles. Hist. i. 69, folio.)

The following is Cressy's account of the "form, original, dignity, and privileges of the archiepiscopal pall." He observes, that "it was at first truly a mantle, or upper vesture, as the word imports, worn by emperors, and by Constantine as an honour per-

mitted to the pope, and by him communicated to other patriarchs. And in this form it continued in the eastern parts: whereas at Rome and in the west this title is given to a small portion or appendage of the first pallium, being according to the description given of it by pope Innocent III., a certain vestment as it were the collar of an order, of about three fingers' breadth, encompassing the neck: from which descends two labels, before and behind; on the one are interwoven four purple crosses, and in each label one; and it is fastened to the upper garment with three golden pins."

In the time of St. Gregory the Great it was conferred as a badge of honour, to be worn by the archbishops during the time of divine service, and was regarded as an emblem of humility, charity, and innocence. Frequent mention is made of it in St. Gregory's Epistles, where he exhorts the prelates to vindicate the design and honour of it by justice and humility, (lib. ix. epist. 125.) Alcuin thus exhorts the metropolitan when he puts it on: "Always reflect when thou art clothed with the pall of sanctity, and seeest the sign of the holy cross affixed to it before and behind, that thou oughtest to follow Him who bore his cross on which he prepared the trophy of our redemption. When thou seest it, kiss it and venerate it, as becometh the sanctity of this sign: and remember that thou oughtest to follow him who saith, 'He who will come after me, let him take up his cross and follow me.'" (Alc. i. ep. lxxxiii. p. 121.)

EXTRACTS FROM WHARTON'S ANGLIA SACRA.

No. I.—Vol. I. p. 315.

On the death of Nicolaus, the monks of Winchester, having made an election, chose Robert, Bishop of Bath, as their prelate. The elect, on account of having been formerly guilty of the charge of plurality of benefices, was rejected by John, Archbishop of Canterbury, by virtue of a canon passed by the Council of Lyons in the year 1274. On the rejection of the Bishop of Bath, the monks elected Richard de la More, Archdeacon of Winchester and Subdean of Lincoln, on the 6th of November, 1280. He was admitted by the King, but rejected by the Archbishop, a most rigid observer of ecclesiastical disci-

pline, on the same charge of plurality. He therefore betook himself to Rome, having commenced his journey on the 5 cal. of March; and laboured hard to obtain the confirmation of his election. On the other hand, the Archbishop, having sent Proctors to the papal court, left no stone unturned to exclude him from the bishopric; evincing so much earnestness, that he determined, unless the matter succeeded according to his wishes, to resign his archiepiscopal dignity. For he thus writes to his proctors: "Neither let it escape your memory nor your tongue at the fitting time, that the present Elect of Winchester is

the first in England that has been repulsed from the episcopal honour on account of a plurality of benefices. And if it should happen that by grace or in any manner whatsoever he be confirmed; we consider that the state of the whole of the English clergy will be thrown into confusion, and it will not be honourable in us to remain henceforward in England. For the sons of the Devil, unjust holders of benefices, who now despair of honours, will rise up with one assault against us." The election was finally

quashed by the Pope in the year 1282; not so much however on account of the importunate prayers of the Archbishop, as because Richard, through fear of Simony, was unwilling to give one farthing for receiving confirmation. Richard being set aside, the Pope conferred the bishopric upon M. John de Pontois, Archdeacon of Exeter, twelve years before Professor of Civil Law in the city of Modena, and caused him to be consecrated in the Roman Court.

No. II.—Vol. I. p. 531.

On the death of Godfrey Giffard, the monks of Worcester chose out of their own body an excellent man, John de S. Germanus, 25th of March, 1302. King Edward, having given his assent, confirmed the election, 7th of April, 1302. But the Archbishop refusing his confirmation, an appeal was made to Rome. While the suit was yet pending, the elect, who was present at the Roman Court, either impatient of the delay, or in obedience to the wishes of the Pope, relinquished his right, 17th of October, 1302. . . . On the cession of John, the Pope (Boniface the VIII. who endeavoured by right or wrong to enlarge the Pontifical authority), by an example altogether new, without consulting either the King or the Chapter of Worcester, created William de Geynesborough, a monk of the order of Minors, bishop of Worcester, on the 24th day of the same month, and consecrated him a few days afterwards. William indeed enjoyed a very high reputation for learning and talent; as he had been the Prelector of Theology in the monastery of Minorites at Oxford, and afterwards in the sacred palace at Rome; and was held in great esteem by King Edward himself, being formerly his legate to Philip King of France, for the purpose of negotiating a peace. Nevertheless, the King did not suffer the charge of having accepted the bishopric without consulting him pass over with impunity. When he restored to him the temporals of the bishopric at Windsor, 4th of Febr. 1303, he

exactd of him a written renunciation of that clause of the papal bull, in which the Pope pretended *that he committed to him the administration of the spirituals and temporals of the aforesaid bishopric*. Hence a custom grew up, which obtained till the reformation of the English Church, that the Bishops in receiving the Temporals from the King, renounced in writing all right that they could have to the Temporals of bishoprics upon the pretence of a papal provision, and protested that they owed them solely to the liberality of the King. This protestation, however, was not enough to pacify King Edward, who did not pardon William's boldness without a heavy mulct. For the Bishop *being brought to trial on that charge, settled with the King in Chancery for a thousand marks to be paid at the King's pleasure*, although afterwards the King, being appeased by the very great fidelity and diligence with which he performed the episcopal office, remitted the fine, the 21st of March, 1306. With respect to the spiritual jurisdiction, he had received it from the Vicar of the Archbishop of Canterbury, about the beginning of the year 1303, having first made profession of canonical obedience at the great altar of the metropolitan church; which profession (so the custom of the times prevailed) he renewed in the presence of the Archbishop as soon as he came to him.

EXTRACT FROM THE COTTONIAN MSS.

Among the Cottonian MSS. (Cleop. E. vi. folio 142) will be found a curious document, in which there is no mention at all of any *Conge d'elire*, which, in the modern application of the dean and chapter, is never omitted. The following is a translation of this remarkable testimony to the ancient practice:

BE it known that a church being deprived of the government of its Pastor, the Chapter and the Canons present do appoint a certain term to celebrate an election, concerning which a public instrument is to be drawn up, in which it shall be stated in what manner such a church became vacant on such a day, the manner also of vacation shall be declared, whether by death or otherwise; if by death, then his body being delivered for ecclesiastical sepulture, that those who are of the Chapter assembling together do

appoint a certain term, with a continuation and pro-rogation of the days and hours following, to celebrate a new election, which shall be a competent term, namely, that the absent persons who are called within it, being cited, can conveniently come, the distances of places, and the qualities of the persons and times being considered. Then there must be a certificate when the term or day of election arrives, and all are to be cited who by right or custom ought, wish, and are able conveniently to be present, and those who are in possession can meet together to celebrate the election. And, having met all together, in the place appointed, let them diligently consider whether they shall choose to proceed by way of compromise or scrutiny; one way being chosen, let them perform it according to the decrees of the Fathers and the Canons, of which, as it would be too lengthy to write down all, I therefore omit a great many. The election being duly completed, there shall be a solemn publication to the whole people, and the *Te Deum* shall be sung, and the person elected be carried before the high altar, which things being performed within a certain time, let them ask the consent of the person elected, that he consent to the election made of himself. Which being done, the decree of election shall be presented to the metropolitan, together with the elect. The tenor of the decree shall be as follows:—

“To the most reverend Father in Christ and Lord, Lord N. by Divine permission Archbishop of Canterbury, Primate of all England, and Legate of the Apostolic See, or its Vicar-General in spiritual matters, or its official principal, or any other its vicerent whatsoever; your humble and devoted sons, the Prior and Chapter or Convent of our Cathedral Church, all kinds of obedience and reverences due to so great most reverend Primate and Father with honour; it is provided in the sacred Canons that a Church shall not be vacant of its own Bishop beyond

three months, lest for want of a Pastor the rapacious wolf should invade the Lord's flock, or the widowed Church should suffer grievous loss in its concerns. Wherefore S. of good memory, our Bishop of N. having gone the way of all flesh as it pleased God, on such a day and year, and his body according to due custom, having been delivered to ecclesiastical sepulture, we the prior of the chapter or convent of N. meeting together to celebrate the election of our future Bishop, have thought proper to appoint the following term. These therefore having in the meantime been summoned, and then being present, as ought, wished, and were able, conveniently to be present at the celebration of the election, we received in the chapter in our chapter house of N. those who by right, custom, and agreement ought to be present, being about to deliberate concerning the election of a future Bishop, and after diverse deliberations had among us, and nominations of diverse persons, and after manifold discussions and inquiries, it was at length determined by all and each of us, to proceed by way of scrutiny, or by way of compromise.” And as it was proceeded, so shall the instrument be drawn up. Then thus let it be written to the Primate or Metropolitan:—

“We have thought meet unanimously to supplicate your most reverend fatherhood, that you would vouchsafe to confirm the aforesaid election, and to communicate to our elect aforesaid, the gift of consecration by the laying on of your holy hands, so that by God's authority he may be able as suitable Pastor to preside over and benefit us and the whole bishopric, or (if he is an archbishop or Primate) the whole province, in those things which pertain to a Bishop or Archbishop. And that you may see that this election and petition are in accordance with the benignity of your most reverend fatherhood, we send this canonical decree in confirmation under our common seal.”

